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CALIFORNIA HISTORY

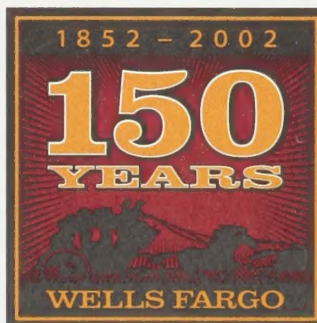


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ON THE COVER: G. D. Brewerton (1820-1901), *Self-Portrait*, 1856, oil on canvas, 43½ in. by 60 in. Private collection.
BACK COVER: G. D. Brewerton, *Jornada del Muerto*, 1853, oil on canvas, 30 in. by 44 in. Courtesy Oakland Museum of California, Kahn Collection, photo by M. Lee Fatherree.

California on His Mind

THE EASEL AND PEN OF PIONEER GEORGE DOUGLAS BREWERTON

by Jourdan Moore Houston
and Alan Fraser Houston

In late February of 1848, a tall and wiry second lieutenant whose father was superintendent of West Point sat "in arrest" in San Francisco. George Douglas Brewerton may have occupied the same Yerba Buena blockhouse that he usually commanded in the adobe barracks on the town's central Plaza. This high-strung, well-connected youth of nineteen may have been pondering his role as his family's fifth-generation George Brewerton in a century with a military calling. He had already submitted his resignation once, without success, while traveling from New York to his post in California.¹

Within days, "the result of no particular whim or fancy of mine own," the young Yankee received "the mandate of an authoritative old gentleman, then holding military sway in the Californias," Col. Richard Barnes Mason (1797-1850). Mason, military governor of California, sent him, quite literally, on the ride of his life. He relieved Brewerton of his San Francisco duties with the New York Regiment and ordered him to Los Angeles to "accompanie [*sic*] to the U.S. the Party under the Command of Lieut [Christopher] Carson which is expected to start from that place about the 1st May next." Brewerton, his sketchbook in hand, spent the next two months in southern California. Then, this man who described his imagination as "a quiet little studio of mine own, where I conjure up all sorts of fancies" traveled east with Carson through the Mojave Desert and began a long trek across the Southwest.²

Five years later, those fancies burst forth. George Douglas Brewerton, "that talented and peculiar artist," had finally resigned successfully from the

army and set out to produce some of the first large-scale landscapes depicting the moods, colors, and character of California and the frontier.³ His works quickly entered some of the finest art collections in the East. In February 1853, New York's *Home Journal* described a landscape by "G.D. Brewerton, late of the United States Army" that

... illustrates southwestern scenery with vivid accuracy, and portrays some features peculiar to that region... such, moreover, as are seldom represented in paintings of this description. His truthfulness in delineating the misty mountain-tops, turbid streams, decaying forest-wood, and other remarkable aspects of this portion of our continent is worthy [of] special and close attention.⁴

For those who failed to see his paintings, Brewerton wrote and illustrated a lengthy account of his travels in pre-Gold Rush California and the Southwest, published in August of 1853 in a fledgling periodical, *Harper's New Monthly Magazine*.

Although he died a brevet colonel in 1901 and never lost his martial flair, Brewerton spent the second half of the century as a landscape artist who alternatively wrote, preached, litigated, orated, and speculated. He published hundreds of poems and articles, edited a short-lived magazine, penned the lyrics to a Civil War tune, and wrote at least four books, one considered a seminal volume of American history. But most of all he painted. He was a man of contradictions, garrulous and ardent on one hand, apprehensive and fatalistic on the other. "There is the nervous man," he wrote when only twenty-eight, "who shivers at every blast of the steam-whistle, and



G. D. Brewerton—explorer, painter, poet, historian—finely rendered in frontiersman garb for the frontispiece of his 1856 narrative, *The War in Kansas*, subtitled *A Rough Trip to the Border Among New Homes and a Strange People*. Dedicated to Kit Carson, the account was published in New York in 1856 and reviewed in *Putnam's* as droll but useful for its inclusion of documents related to the divisive slavery issue that gripped the territory. Before writing the book, Brewerton had illustrated serialized accounts of his travels in the Southwest and California for *Harper's*. To the end of his life he remained passionate about describing his experiences and interpreting the landscape on paper and canvas. Credit: *Authors' collection*



G. D. Brewerton, "A Great Plain," ca. 1848, graphite on paper. *California Historical Society Collection*, FN-28874.

hears an 'awful catastrophe' in the rush of an approaching train . . . To this class, we belong—for, in this respect, we are a person of terrible experiences."⁵ Brewerton flourished, but whether he was a rose or a thorn often lay in the eye of the beholder.

His first venture in California defined Brewerton; sharing that experience brought him national recognition when he was only in his twenties. His memories sustained him in his later years. He returned to the state as a high-profile member of the Society

of California Pioneers, and his pastels of the California coastline buoyed him financially as an old man. Brewerton pioneered as a painter, too, but remains a man of largely peripheral reputation. Trained in the academic mode, he was willing to take license with conventions in composition, color, and application, creating canvases that defy their age and look surprisingly contemporary. As his career advanced, he experimented with mixing media. He applied pastels—finely ground, hardened pastes of

compacted pigments—for rich chromatic landscape paintings, and applied a painstaking classical technique known as silverpoint to some of his drawings.

Despite his prodigious output, Brewerton's located early oil paintings of California and the Southwest are rare. So are sketches of his early travels, which began in 1846. Six of these have been identified at the California Historical Society, and a striking California work—*Jornada del Muerto*—is at the Oakland Museum of California. Many of Brewerton's California drawings were swept into the Green River in Utah, along with the artist, on June 3, 1848—his birthday.⁶

George Douglas Brewerton had been born only twenty years earlier in Newport, Rhode Island, the first of four children of Caroline Louisa Knight (1801-1853) and Henry L. Brewerton (1801-1879). His father's first American forebear was English hatter George Brewerton (b. 1665), who had served as secretary to the lieutenant governor of New York and whose descendants, too, would occupy key political roles in New York State as proprietors, aldermen, and justices.⁷ The artist's father, Henry, an army engineer with an authoritarian bent, became superintendent of his alma mater, the United States Military Academy, in 1845, a position he kept until succeeded by Robert E. Lee in 1852.⁸ Henry's older brother, Marine Lt. George Douglas Brewerton (1799-1827), was surely the namesake of Henry's first son, who went by "Douglas."

Although he spent most of his youth after 1836 in New York state, Douglas Brewerton passed his first years in Charleston, S.C. There, his father supervised the expansion of the port's defenses, including the early phases of building Fort Sumter, which Douglas Brewerton would revisit (and portray) during the Civil War. A second four years followed in Ohio—at least part of it in the town of Springfield—as Henry Brewerton oversaw the extension of the "Great American Road," a national highway that had originated in Cumberland, Maryland, several decades earlier.⁹ The boy's early art training, if any, is undocumented, although some natural talent may be credited to his



G. D. Brewerton, *Untitled*, pastel on paper, 27½ in. by 14½ in. Collection of Marc and Lyn Cohen. Photograph by Amanda Cohen.

parents. His mother was the niece of miniaturist Edward Green Malbone (1777-1807) of Newport, R.I., and his father had been assistant professor of drawing at the U.S. Military Academy in 1819.¹⁰

At West Point in the mid-1840s, Douglas studied with historical painter Robert W. Weir (1803-1889), professor of drawing and martial arts on campus since 1833. Weir had secured his eminence as an artist by 1843, when he completed the twelve-foot-high *Embarkation of the Pilgrims* for the United States capitol rotunda. He had achieved his standing among his peers when the National Academy of Design in

New York had named him a full member in 1829 and soon "professor of perspective" there, a post he deemed "a grand title," but by no means a day job. "The hours of teaching were not long," Weir's granddaughter remembered, allowing Weir "ample time" to remain an active and versatile painter. Stylistically, he relished what his friend, art critic Henry Tuckerman, called "a conviction of the need of careful and elaborate finish," an attribute from his Italian studies that he passed along to Douglas Brewerton.¹¹

Historically, drawing enjoyed a place at the military academy shared only by French, the language of engineering at the time. In 1803, Congress provided that the two subjects have one teacher each "to be attached to the Corps of Engineers." Drawing skill was a vital adjunct to military fieldwork as well as to the science of engineering. For a time, mastery of drawing also played a decisive role in assuring a cadet's candidacy for the coveted Army Corps of Topographical Engineers.¹²

Dry as the concept of topographical drawing and perspective might seem, the nation's two military academies in the nineteenth century attracted teachers who were respected and productive members of the country's artistic communities. Weir, who had succeeded Sir Charles Robert Leslie (1794-1859) at West Point, was what one of his acquaintances—landscape painter Samuel Lancaster Gerry (1813-1891)—called a "wide-liker," skilled in a variety of painting genres.¹³ Leslie was an English-born American painter and Royal Academician; his stay above the Hudson River's cliffs lasted only months in early 1833. Weir's assistant for seven years in the 1830s, Seth Eastman (1808-1875), had studied drawing at West Point in the previous decade under Thomas Gimbrede (1781-1832), whose tenure began while young Henry Brewerton helped teach drawing in 1819. Eastman expanded his knowledge under Weir and went on to bring Western landscapes and scenes of Indian life to the East during the 1840s and 1850s.¹⁴

Weir's pupils enjoyed unusual variety in their art curriculum—including a course in the human figure—with varying levels of success.¹⁵ "It is true, there are

obvious grades of ability," Henry Tuckerman suggested, "but few institutions, even where drawing is learned from choice and not as a requirement, can furnish such examples of freedom, accuracy, and skill."¹⁶ Cadet John Coldwell Tidball (1825-1906), at West Point when Douglas Brewerton was there, considered Weir "too eminent an artist for such work," having "long since passed beyond the level of new beginners." Weir, Tidball wrote, nevertheless showed compassion for those with modest aptitude, "only occasionally inquiring of someone which of his splotches was the house . . . and which the cow."¹⁷ While some of Weir's most famous pupils, such as George B. McClellan (1826-1885) and Thomas J. (Stonewall) Jackson (1824-1863), found drawing an insurmountable challenge, others, such as James Abbott McNeill Whistler (1834-1903), clearly did not.¹⁸

Some of these students—cadets not much older than Douglas Brewerton—would play a part in Brewerton's life, too. Rufus Saxton (1824-1908), class of 1849, took on Brewerton as a volunteer aide during the Civil War. Future general Ambrose Burnside (1824-1881) commissioned two paintings by Brewerton after the war. McClellan and Jesse Reno (1823-1862) taught at West Point under Brewerton's father after the Mexican War; they and Stonewall Jackson and George E. Pickett (1825-1875) were among classmates who soon entered the pantheon of American military lore.¹⁹ Like Brewerton, cadets George H. Derby (1823-1861) and John Tidball carried their studies with Robert Weir to the frontier; both went on to depict California and the far west as artist-engineers sent to illustrate the landscape for rail and coast surveys.²⁰

It was the father of cadet Matthew R. Stevenson (d. 1863), class of 1846, who crafted the opportunity that led Brewerton to California. Not long after the United States declaration of war with Mexico in May of 1846, New York politician Jonathan Drake Stevenson (1800-1894) and Secretary of War William L. Marcy (1786-1857) devised a covert plan to populate California with skilled citizen-soldiers.²¹ The recruits, who would train in New York under the senior Stevenson and sail via Cape Horn in the fall, were

to be left unaware of their destination; their length of service was at the army's discretion or for the term of the war. Implicit was the colonizing of California: the men were "to be discharged wherever they may be" with no expenses provided for returning home at the end of the mysterious posting. (The government later relented on the last edict.)²²

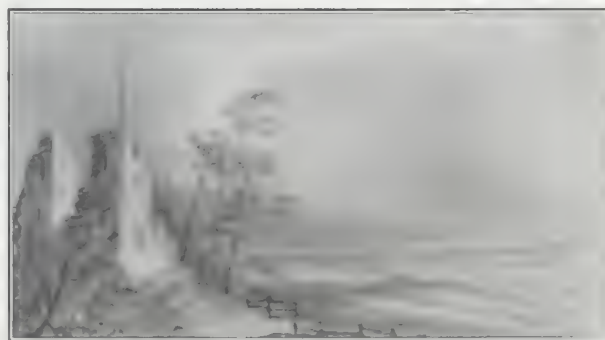
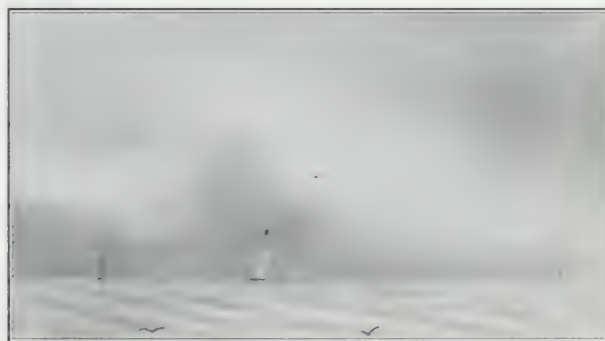
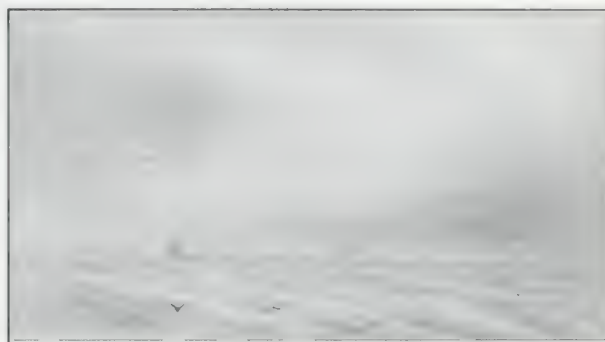
The attempt at secrecy foundered. Headlines quickly referred to the so-called Stevenson regiment as "the California volunteers." When the regiment's transport ships sailed in the fall with manifests declaring destinations of any port but California, the press noted with ample sarcasm that

The last "California" ship has cleared and is now ready. The destination of each ship is as follows: *Mount Vernon*, for the Sandwich Islands; *T.H. Perkins*, Oregon; *Loo Choo*, Rio [de] Janeiro and a market; *Susan Drew*, Oregon. The sloop of war *Preble* [the regiment's escort] will have a hard task to bark round these four transports if their destination is as different as their clearances show.²³

So much for deception. The ships all arrived in California in spring of 1847, and the eight hundred troops would serve until the fall of 1848. Not celebrated for their military proficiency, the regiment did possess entrepreneurial inclinations and practical aptitude: "Nearly every man in the regiment is a mechanic," the *New York Herald* observed, "and may carry his implements of trade with him." One of the principal objectives prevailed, however: nearly half settled in California, many of them becoming leaders in government and commerce.²⁴

Barely eighteen, close to six feet tall, Douglas Brewerton would have cut a striking picture in the regiment's dress gray pants, blue jackets, red piping, and fez cap.²⁵ As officer to seventy men in Company C, he departed for California on the transport *Loo Choo*, a 639-ton former China trader, in late September. The *Loo Choo* arrived in California in March of 1847, but Douglas Brewerton did not.

One of the *Loo Choo*'s passengers, Walter Murray of Company A, recorded the initial chaos. After three days of "hurry, bustle, and confusion . . . [with] each



These small Brewerton sketches appear in the original as a trio that made up one page of a small notebook. California Historical Society, X78-33-1.

day crowded in every part with human beings . . . a very Babel," he recalled, "we at length were taken in tow by a steam tug, and were soon making nine or ten knots an hour, towards Cape Horn." More confusion followed. A "stiff gale" dispersed loosely stowed barrels, mess chests, and boxes, bringing down both bunks and men. On the slippery decks, "almost superhuman exertion" was required before control of the "peripatetic objects" could be established.²⁶

Only three days out, the wind and seas increased suddenly, unsurpassed by any other condition in the subsequent voyage—the dreaded Cape Horn included. The main topgallant mast was carried away and, snarled in the rigging, increased the *Loo Choo's* already severe rolling. Before the tangled mess could be cut away, she was "every moment threatened to go over on her beam ends." Following their brush with disaster, these green soldiers, who were sometimes used as deck hands, enjoyed a long period of "profound tranquility." With clear days, moderate temperatures, and steady, favorable winds, the officers and men "had little or nothing to do" as they sailed to Rio de Janeiro, Brazil. Brewerton sketched; one of his views of Fernando de Noronha, a ten-square-mile island and prison colony in the South Atlantic off Brazil, survives. As the *Loo Choo* arrived in Rio in late November, so many soldiers crowded the rail to see the beautiful harbor that the sailors had difficulty working the ship.²⁷

The future artist's voyage to California proves more complicated than previous descriptions of his travels suggest. By his own account, he disembarked in California in August of 1847 as a ward room passenger on the U.S. store ship *Southampton*, after what seems to have been serious second thoughts about his future in this newly acquired American territory.²⁸ While in Rio de Janeiro in late November of 1846, Brewerton submitted his resignation from the army. It was not accepted, but several days later, he was granted a one-month leave by Colonel Stevenson, who left Rio on December 1 with the gathered regimental ships: the *Loo Choo*, *Susan Drew*, *Thomas H. Perkins* and the convoy's escort, *Preble*. Stevenson's

willingness to indulge the new and presumably unhappy recruit has an explanation. The commander, Colonel Stevenson, was a family friend.²⁹

This was the first of several leaves of absence recorded during Brewerton's service with the New York volunteers. In this instance, the lieutenant returned home until February, when he shipped out again on the *Southampton* from Norfolk "agreeably with the wishes of the Honb. [sic] Secretary of the Navy."³⁰ In California at last by the fall of 1847, after a short stay with his original company in Sonoma, Brewerton was assigned to San Francisco. Brewerton commanded "the guard quartered in San Francisco, then known as Yerba Buena."³¹ The jail they secured was located at the town plaza, or Portsmouth Square, site of the Custom House and of the army quartermaster's office. In addition to these duties, Brewerton and his soldiers guarded "civil prisoners." Miscreants were, according to the artist, "confined to an octagonal block house, defended by a single sentinel on the roof or upper deck, through which a small hatchway gave access to a ladder communicating with one common room" holding prisoners.³²

The gregarious youth soon became familiar with the town's "sandy streets, and low adobe houses,"³³ and quickly took part in the short career of the town's first steamer to ply the waters of San Francisco Bay. In mid-October, the Russian bark *Nasled-nich* arrived in the port after a fifteen-day sail from Sitka, Alaska, with a small steamboat "securely packed up on board."³⁴ The thirty-seven-foot steam side-wheeler had been bought by William Alexander Leidesdorff (1810-1848), a prosperous Yerba Buena entrepreneur who arrived in the then-Mexican town in the early forties. Leidesdorff, a Virgin Islands native of both African and European heritage, had been vice consul under U.S. Consul Thomas Oliver Larkin (1802-1858) and remained a popular local politician until his premature death.

"The bay never witnessed such boating before," wrote Brewerton, who claimed to have seen the craft when it was delivered. Brewerton befriended the steamer's captain, J. Howard (Jack) Ackerman,

Leidesdorff's assistant and clerk of San Francisco's first district legislature in early 1849. "Jack Ackerman ran her," the artist wrote, and it was "awful fun to see him trot round" ordering his portly passengers to move to positions of better "ballast." The young lieutenant teased Leidesdorff about the true purpose of his diminutive steamer, with "shelter for one, with no corner to spare."³⁵ The local press concurred. It suggested that the steamboat's capacity rated "about a small pony power, as Boz [Charles Dickens] would say," adding, "We can judge better of her efficiency after a trip on board up the bay."³⁶

The opportunity for judgment soon arrived. On November 15, a Monday, the vessel sailed on a test run "with a party of gentlemen"—Brewerton among them—who "enjoyed the pleasure of a trip in the miniature steamboat round Bird Island." (Bird or Wood Island is today's Yerba Buena Island). On Tuesday, the little steamer departed for Santa Clara with ten passengers, "a comfortable cabin full," on her first regular trip—"against the tide and wind." The *Californian* had to add a postscript: "P. S.—Tuesday. The steamboat has returned, not being able to stem tide and wind." The following week, Brewerton seems to have joined in saluting Leidesdorff aboard the steamer "in the river Sonoma."³⁷ Among those raising toasts were three men who had been imprisoned at Sonoma by Frémont's forces during the Bear Flag revolt in 1846: Californio Mariano Guadalupe Vallejo (1808-1890), remembered for his advocacy of a free California; Jacob P. Leese (1809-1892), who had moved to Sonoma in 1841, and was Vallejo's brother-in-law; and Victor Prudon (d. 1867/68), a Frenchman in California since 1834, Vallejo's secretary at the time of their arrest. A fourth, Lillburn W. Boggs (1792-1860), former governor of Missouri who was *alcalde* of California north of the Sacramento River before state government, raised a glass to the towns of Sonoma and San Francisco.³⁸

Their ebullience was short-lived. The little vessel, in Brewerton's words, "sunk at her anchor, almost within reach" in mid-February of 1848, watched by an aggravated Leidesdorff.³⁹ Readers of the *Califor-*

nian would learn of "Trouble on the Bay" in a terse verse that began:

Blow ye winds and roll ye billows, roll,
Our craft is large and staunch,
So said the hearties of the larger craft in the harbor.⁴⁰

Little Sitka, as she was now known, "had as much as she could do to keep her head above water long enough to say her prayers. She tossed and tumbled, became submerged, and finally to the bottom went," her presence marked by the top of her "smoke pipe above water." Her obituary was written: "Thus perished the first steamer on the Bay, a mere toy, and a most dangerous one too. Should she be resuscitated by the owner we sincerely hope that none of our citizens will trust themselves with a passage in her beyond the 'flat' that she now rests upon. N. B. 'Little Sitka' has been raised and brought to the beach."⁴¹

When not exploring on land and sea, Brewerton was working "under the same roof" as quartermaster Joseph Libby Folsom (1817-1855) and Lt. Edward Gilbert (ca. 1819-1852), head of the Custom House.⁴² Until the war, Folsom's boss had been Douglas Brewerton's father; an 1840 graduate of West Point, Folsom was teaching at his *alma mater*. After the war, Folsom acquired William Leidesdorff's large estate, but died in 1855 as his real estate ventures advanced. Gilbert became editor of the *Alta California* and, briefly, one of the state's first members of Congress in 1850. Gilbert died in a duel with Gen. James William Denver (1817-1892) in 1852 after writing an editorial criticizing Denver's protection of overland supply trains to California. (Denver was later elected to the same Congressional seat his adversary had once held.)

Douglas Brewerton survived a duel of his own. The lieutenant, who struck one of his men as "being but a boy,"⁴³ did not inspire all those he worked with at his new post. John H. Merrill had sailed on the *Loo Choo*, joined by his family—including his twelve-year-old son, a regimental drummer. In January of 1848, now under Brewerton's command in Company K, Merrill complained that Brewerton had arrested

him for laziness and thrown him in the blockhouse, depriving the soldier's family of support. "I have got into trouble with [Brewerton] who is a great bore," he wrote to Consul Larkin. "He has given me and my family a great deal of trouble since [sic] he came here and also on the ship from New York to Rio Janeiro and when he arrived here he made his boast of it. He has told things disgraceful & false about my daughter and on being told he was a liar if he made such statements he sent the man a challenge and a duel was fought but neither hit."

Merrill's dilemma had begun when, having finished guard duty, he was confronted by Brewerton, who "asked me some impertinent questions." The encounter recurred the following day, after Merrill had been put on the sick list by the company surgeon. Dismissing Merrill's claim of illness, Brewerton "had me arrested and thrown into the block house, lame and unwell as I was." The forty-seven-year-old Merrill, claiming chronic illness and a very pregnant wife, complained that Brewerton would ruin "my property as he would the character of my family."⁴⁴

There is evidence that Brewerton was himself detained within days of Merrill's letter to Larkin; his army records from February 29, 1848, show his being "in arrest" for the past month.⁴⁵ By now, the inquisitive, occasionally brash, and usually restless Brewerton may have tired of garrison life, or those in the garrison may have tired of him. Or perhaps, given his family's illustrious military history, he found the volunteer citizen army in California slapdash and actively sought a post in the professional army. He might have been able to call on his family's considerable connections. A decade later, in a letter to William L. Marcy, war secretary when Brewerton was in California, the artist reminded Marcy of "certain favors" Marcy had provided Brewerton in 1849 while the lieutenant was with the First Regiment U.S. Infantry.⁴⁶

Only two weeks later, on Colonel Mason's orders, Brewerton boarded the *Barnstable*, whose departure drew a crowd as "the only vessel boasting three masts in the harbor." The press noted that the ship carried

Lieutenant Brewerton, Judge Hyde, and Henry Melius to Monterey on March 20. Only days before in San Francisco, Quartermaster Folsom had announced that Kit Carson would be leaving "the Lower Pueblo" in early May. The public, he announced, could send "light letters, free of charge" to St. Louis in the care of the revered scout and, it turned out, of Lt. George Douglas Brewerton.⁴⁷

Brewerton's account of his travels through California Territory begin with his departure from San Francisco. Unlike his paintings of the region, his chronicle has retained an audience, published as *Overland with Kit Carson: A Narrative of the Old Spanish Trail in '48*, a compilation of Brewerton's three *Harper's* articles. His descriptions remain relevant to the trail's history, which has gained attention in recent years with efforts to establish its designation as a national historic trail. Aside from a few words from Kit Carson in his autobiography, the only source of the men's adventures remains Brewerton's lively writing.⁴⁸

Brewerton traveled via San Pedro to Los Angeles to meet Carson, the man who struck him as "Dame Nature's gentleman"; Lieutenant Carson (1809-1868) had recently joined the First U.S. Dragoons, a venerable regiment with a tradition of service in the West commanded by Mason.⁴⁹ Brewerton carried orders for the regular army, and would soon be en route to a new posting in Mississippi, joining Carson on the journey.⁵⁰ First, however, he would linger in southern California, exploring alone for one month and with Carson for the second.

Once inside the "white-walled buildings of Los Angeles," Brewerton saw a church and "three or four American shops," but the construction of the adobe homes on the pueblo's narrow streets especially intrigued him. He noted that they enjoyed "perfectly waterproof covering" thanks to roofs composed of gravel "mixed with sort of a mineral pitch [found] upon the sea-shore." A disadvantage of the roofing, however, was that it melted in warm weather, "and in running down, fringes the sides of the building with long *pitchicles* (if we may be allowed to coin a



G. D. Brewerton, *Self-Portrait*, 1856, oil on canvas, 43 ½ in. by 60 in. *Private collection.*

vord), thus giving to the houses an exceedingly grotesque appearance." Otherwise, he suggested, the town of several hundred differed "but little from other Mexican villages."⁵¹

Kit Carson arrived in Brewerton's military mess-room "just as I was beginning to weary of the comparatively idle life" in Los Angeles. Brewerton had anticipated a man "over six feet high—a sort of modern Hercules in his build—with an enormous beard, and a voice like a roused lion." Instead, he discovered a small, clean-shaven man who was "mild and gentlemanly, simple and childlike in his conversation" with "a voice as soft and gentle as a woman's." The reaction was a common one. Years later, Brew-

erton's old friend William Tecumseh Sherman (who had executed the artist's orders to join Carson) wrote to Brewerton in California that he remembered the scout as short, with "reddish hair, freckled face, stoop-shouldered and by no means the herculean [sic] warrior painted in our school books."⁵²

Brewerton and his new companion soon left Los Angeles, riding three hours east, across hilly, florid, colorful terrain that the artist saw as nature's "patchwork quilt upon a grand scale." For much of April, the pair hunted and fished in the California countryside near "our road to the Great Pass, by which we purposed [sic] crossing the California mountains and entering the solitudes of the Sandy Desert."

They sang and told tales by campfire, and fattened their mules on local wild oats at their camp at Bridge Creek, "a pretty little stream of clear, sweet water, fringed with trees, which afforded plenty of timber for our *corral*."⁵³ Their destination was St. Louis, on the way to Brewerton's new assignment, but they would stop at Carson's home in Taos en route.

In early May of 1848, the travelers returned to Los Angeles to provision their caravan and to start an inauspicious shakedown trek from the town back to Bridge Creek, a short run described by the artist as "more like a chapter of accidents than a progressive movement." At sunrise on May 5, the convoy set off—Carson, Brewerton, "three citizens," three servants, and a party of twenty hired muleteers and cooks. Brewerton wore a checkered shirt and buckskin, including a coat lined in bright red flannel and arrayed with brass buttons. He had seven mules of his own, including a "little gray mule which I had reserved for my especial riding."⁵⁴ Carson, Brewerton, and one of the "citizens" always led the expedition, followed by the animals and then the rest of the caravan. On May 6, they passed "the last house that we would see until our arrival in the Territory of New Mexico," Brewerton noted, "and I must confess that I turned in my saddle and cast 'a long, lingering look' behind." The general course took them by way of the great Spanish trail, a twelve-hundred-mile route through territorial California and territorial New Mexico. Today, the trail's remnants lie northeast from Los Angeles through Las Vegas, Nevada, into central Utah, then southeast to Colorado and New Mexico.

From Los Angeles, traveling at two to three miles an hour, they arrived "within [Cajon] Pass" on the first night, camping on a "rough, and stony hillside." This initial discomfort, Brewerton remembered, was "a mere foretaste of the troubles to come." In recounting his 1848 travels, Brewerton chose to eschew



George D. Brewerton, "Street in the Pueblo, Los Angeles," 1853, wood engraving, 2 in. by 2 ½ in. Authors' collection.

description of his surroundings in geological, topographical, or similar terms except when in trouble or in awe, explaining, "I have had a horror of the 'ologies' ever since my days of schoolboy experience."⁵⁵ Indeed, he must have experienced enough trouble and awe during the California leg of his travels, for they consume a hearty portion of his accounts.

From Cajon Pass, the party crossed territorial California, which then extended as far east as the Rocky Mountains. Brewerton's first troubles and incipient awe began in California's "Great Desert," whose "hot sand and broken rock" gave the artist second thoughts about continuing. At the same time, however, it provided a terrain he would record in pencil, prose, and oils throughout his life. Rejected at times by "Little Gray," his mule, the young lieutenant found himself trudging "up hill through the deep sands." Monotony prevailed in the "dreary waste where the eye met the same eternal rock and sand which the artist likened to 'the crater of an immense volcano.'"⁵⁶ Carson and Brewerton's small train found itself behind a vast caravan of Mexican traders return-

ing from California to Santa Fe. Their thousand mules and horses were depleting essential forage for those who followed. Carson and Brewerton intensified their pace, traveling between fifteen and fifty miles a day. After eight days in the desert, the smaller party passed the larger and improved its chances for the challenge now facing them—their *jornada del muerto*. Translated literally as “a journey of death,” this term for desert travelers has a figurative mean-

ing that Brewerton described as the “absence of water upon the route traveled” and, in this instance, about eighty miles with no stops between watering holes.⁵⁷

Their *jornada* began at three in the afternoon sometime in mid-May and continued until late the next morning. They traveled an average of four miles per hour past dried bones into vast, silent basins of sand and rock punctuated by equally barren mountain ranges. About halfway through the



George D. Brewerton, “Approach to Great Sandy Desert,” 1853, wood engraving, 3½ in. by 4¾ in. *Authors’ collection*



G. D. Brewerton, "Life at Bridge Creek," 1853, wood engraving, 3 ½ in. by 4 ¾ in. Authors' collection.

trek, Brewerton, having, not atypically, "fallen into some train of thought which I wished to ravel out," was separated from the caravan, out of sight and out of earshot, "in the depths of an almost trackless wilderness, five hundred miles from the nearest settlements." With no water, and with his tracks obliterated by wind, he prepared to die, not sure whether by thirst, starvation or, he proposed, murder by the "Indians who were continually lurking about the Spanish trail." But as his mule began snorting, pawing, and behaving oddly, her forlorn rider recalled that Mexican mules could smell distant water. Given free rein, the animal tore into the night with "a wild cry and the shake of the head" and galloped, with occasional pauses to sniff the sand, "into the very midst of our party."⁵⁸

Brewerton often referred to his propensity for daydreaming. As he rode "Little Gray" through California into the Rockies, he fancied a transcontinental railroad from the Pacific. Despite the "shifting sands and the uninhabitable wastes of the Great Basin," and the "rugged bulwarks" of intervening mountains, he concluded that a railroad was feasible. His railroad convictions "hung upon my lips as our little band of way-worn *voyageurs* traversed with hasty steps the bases of those mighty 'sierras,'" he recalled in 1853, and he insisted that the "iron horse" would "one day thunder . . . through these far solitudes, now so wild and tenantless."⁵⁹

The young rider was intrigued, too, by the "whirlwinds" and mirages or "false ponds" of the Great Basin and, later, of the prairies. He was satisfied that

he grasped the dynamics of the whirlwind's "moving column . . . of dried grasses or dust," but he puzzled over the conflicting theories among travelers regarding mirages. Refraction of the sky at the horizon? Reflection of "a gas emanating . . . from the sun-baked earth and vegetable matter?" A "surcharge of carbonic acid?" He opted for refraction, and hoped that some "curious natural philosopher" would one day solve the puzzle.⁶⁰

Brewerton now had his first encounter with the Paiutes, nomadic hunters of the southern desert who lived in cone-shaped dwellings called wickiups and fed on the sparsely available fare of the region, some of it by digging. He was both intrigued by their intercourse with the travelers and repulsed by their appearance (semi-naked, with long hair "almost as coarse as the mane of a mule") and by their gustatory preferences (raw horsemeat and live lizards). In his typical lifelong candor, Brewerton did not spare words. "These Digger Indians are by far the most degraded and miserable beings who inhabit this continent; their bag-like covering is of the scantiest description, their food revolting; the puppies and rats of the Celestials being almost Epicurean when compared with a Pau-Eutaw bill of fare." Despite their "exceedingly keen" eyes, he saw little "intellectual expression" among the visitors to their campfire.⁶¹ This disparaging reflection on the desert's inhabitants was not uncommon among travelers of the day, Mark Twain among them.⁶² Brewerton was catholic in his detractions of most races or ethnic groups except his own—Chinese, Irish, black, or Indian and, depending on the circumstance, Mexican. As a "Young America" Democrat, he supported territorial expansion and advocated self-determination on every new territory. He espoused what was then called Native Americanism, favoring the rights of native-born Americans of European heritage over more recent immigrants. This movement eventually drove moderate Democrats to help form the Republican Party, which nominated explorer John C. Frémont (1813-1890) as its first presidential candidate in 1856. Douglas Brewerton would campaign fer-

vently in 1856 for the Democrats, whose candidate was James Buchanan.

But in the desert of 1848, practicalities, not politics, prevailed. Their *jornada* of several night marches completed, the caravan rested for twenty-four hours at a "dreary" desert campground named the Archillette, now Resting Spring, a few miles east of Tecopa, California. Surrounded by whitening human bones and by a spiked skull from earlier Paiute depredations, Carson recounted tales of murder and savagery at the campsite as a storm approached and "rendered the sides of the naked *sierras* still darker, and muttered solemnly among the hills."⁶³ The caravan crossed Emigrant Pass in the Panamint Range into today's Nevada and reached the springs of Las Vegas, "the meadows" in Spanish. Continuing northeast, they advanced to "green grass and sweet water"⁶⁴ along the Santa Clara River at Las Vegas de Santa Clara, now Mountain Meadow, Utah. On June 3, 1848, the party arrived at the Green River crossing, where a Utah town of the same name sits today. It was Douglas Brewerton's twentieth birthday.

The men faced two more weeks of travel before they reached Taos, and two large rivers to cross, the Green and, soon after, the Grand (now the Colorado River). In wintry weather, Brewerton—the best swimmer—and five other voyagers, dressed only in their hats, pulled a newly-lashed raft across the swollen river, with their packs, saddles, and government pouches in the safest position. (The pouches carried not only the California mails, but also word of the discovery of gold.) Brewerton nearly drowned on their first attempt and, wrapped in buffalo skins on the eastern shore, watched as another raft spilled "not only arms and ammunition but food and clothing [into the] bitterly cold and treacherous rapids."⁶⁵ The caravan was left with only three days' supply of food, and Brewerton found that the river had swept away "my notebook, my geological and botanical specimens, and many of my sketches, a most serious and vexatious loss."⁶⁶ Coursing through the Rocky Mountains, where game proved abundant, and escaping an attack by some very serious Ute

Indians in New Mexico, the oddly attired expedition arrived in Taos six weeks after leaving Los Angeles.⁶⁷

Brewerton lingered in New Mexico for a while, departing for his new regiment via the Santa Fe Trail and celebrating the Fourth of July, 1848, as he began. In early August, he entered Independence, Missouri. By December, he had a wife, and in 1849 was sent with the First Regular Infantry to Texas, "on the line of the Rio Grande, between Brownsville and El Paso . . . locating and building Military Posts."⁶⁸

Brewerton served his last day as a first lieutenant in the U.S. Army on December 31, 1852. On New Year's Day he was a civilian and, one must assume, at his easel, because the fruits of Brewerton's sketches from the Pacific and the American Southwest were evident within weeks. Among the first canvases to attract attention was *Jornada del Muerto, the Great American Desert*, on exhibition at a New York gallery in May of 1853:

Mr. Brewerton was, for many years, an officer in the



George D. Brewerton, "View in the Great Sandy Desert," 1853, wood engraving, 3½ in. by 4¾ in. Authors' collection.



G. D. Brewerton, "Sand Rocks in the Desert," 1853, wood engraving, 3½ in. by 4¾ in. Authors' collection.

army of the United States, and in the course of his duty, travelled thousands of miles in the western country, traversing some regions never before trodden by the white man's foot. He thus accumulated a vast quantity of precious "material," which, since he retired from the army and established himself here as an artist, he has been engaged in working up . . . pictures of a character at once novel, interesting, and suggestive.⁶⁹

Some of Brewerton's sketches from his California desert crossing must have escaped the river, for he presented a series of them in his August 1853 *Harper's* article on his travels from Los Angeles to Taos. He painted scenes of "the Great California Basin"

throughout his career, selling *The Great American Desert*, a vertical portrayal measuring thirty-four inches high by twenty-seven inches, in Boston in 1869.⁷⁰ But one of his earliest depictions of the desert, completed in 1853 and measuring thirty by forty-four inches, survived to return west, ultimately, to the Oakland Museum. Believed to be located on the trail between Bitter and Resting Springs in California, *Jornada del Muerto* appears also as a wood engraving in *Harper's*.⁷¹

Although one of the earliest oil paintings of the state, the *Jornada del Muerto* could be taken today for one of its most recent. To most American eyes in 1853, the scene would have been foreign—even alien. A



G. Douglas Brewerton, *Self-Portrait*, 1856, (detail), oil on canvas, 43½ in. by 60 in. *Private collection.*

landscape without a tree? The barren desert topography challenged the codes of composition, and allowed Brewerton some license on his canvas. Trained in the so-called academic tradition, with its classical foundations, the twenty-four-year-old artist enjoyed breaking ground as well as breaking rules. The canvas lets conventional compositional precepts move the eye into the painting and across planes to reach the barren horizon's endless sand and overwhelming sky. Although a tent and figures sit in the middle ground, it is the background that counts in this painting, because the story—the *jornada*—will happen there.

The desert canvas met another need. After seven years in the frontier, Brewerton returned to a culture that was calling for more “native” scenes in painting and more realistic rather than idealized settings. Sculptor Horatio Greenough (1805-1852) had argued that European arbiters of culture judged England's former colony ill-equipped to produce meritorious

homegrown literature or visual arts. Worse, Americans pondering the arts looked to Europe for their inspiration. Greenough, fiercely patriotic despite a career spent mostly in Italy, had a hearty response to Europe's view of America's creative capabilities:

Seeing us intently occupied, during several generations, in felling forests, in building towns, and constructing roads, she thence formed a theory that we were good for nothing except these pioneer efforts. She taunted us, because there were no statues or frescoes in our log-cabins.⁷²

The New York press saw Douglas Brewerton as a refreshing antidote. “Mr. Brewerton, we are glad to know, has had more than ordinary encouragement in his career as an artist,” one critic applauded. “He has entered a new field of artistic enterprise, and he intends that at least *one* American pencil shall be devoted to depicting purely American scenery.”⁷³

By 1853, of course, California had entered most easterners' experiences: what family had not watched a friend or relative embark to the gold fields? But before the Gold Rush, the region had been portrayed mostly in prints and watercolors, typically through the eyes of military topographers and engineers. Some were skilled artists. Captain Daniel Powers Whiting (1808-1892), who was with the Seventh Infantry in California, produced large, popular, tinted lithographs of Monterey and the Sierra Madre in 1847. A veteran of eighteen years in the army, Whiting was trained as a draftsman at West Point in the early 1830s just before Robert Weir's arrival.⁷⁴ William Rich Hutton (1826-1901) left an array of sketches and watercolors of California starting in 1847, including very early views of Los Angeles.⁷⁵ Within a few years of the Gold Rush, California was “more than supplied with painters of a very high order of intellect and accomplishments” but painter of the 1840s frontier remained few.⁷⁶

Brewerton's large canvases of the West quickly found their way to popular places in 1853. *Rock Mountain Glen* hung among more than six hundred paintings in the new Crystal Palace, a world's fa-



G. D. Brewerton, *Jornada del Muerto*, 1853, oil on canvas, 30 in. by 44 in.
 Courtesy Oakland Museum of California, Kahn Collection, photo by M. Lee Fatherree.

ilding concocted of fifteen thousand panes of
 ass and three hundred tons of wrought iron near
 day's New York Public Library. A very young
 ark Twain (1835-1910) toured the colossal struc-
 re in 1853 and marveled to his sister that "visitors
 the Palace average 6,000 daily—double the pop-
 ation of Hannibal."⁷⁷ Brewerton's works entered
 e finest collections, including those of George Tal-
 t Olyphant (1819-1873) and Marshall O. Roberts
 814-1880). Both men had made fortunes in ship-
 ng. W. W. Corcoran (1798-1888), rich from bank-
 g deals during the War with Mexico, purchased a
 ew Mexican landscape by Brewerton. Now in the
 orcoran Museum of Art in Washington, D.C., that
 ainting shows the western jumping-off point of the
 anta Fe Trail near Fort Union, New Mexico. Soap

maker Samuel Colgate and Charles Gunther (1822-
 1885), mayor of New York City from 1864 to 1866,
 were other patrons of Brewerton. Colgate employed
 Brewerton in Brooklyn when the artist was fresh
 from the army.

For the next twenty-five years, Brewerton lived
 mostly in Brooklyn or Newport, Rhode Island. When
 he was not painting, he was writing or, it seems, pon-
 dering other careers. His reputation as an author began
 with the accounts of his pre-Gold Rush travels for
Harper's. In 1854, a year he exhibited at the National
 Academy of Design in New York, he published a
 short-lived magazine, *Young America, or Child of the
 Order*, intended to advocate "American principles
 and American men" and subscribing to the senti-
 ments of the "Young America" movement.⁷⁸ In 1856,



G. D. Brewerton, *Rocky Mountain Scene*, oil on canvas, 33 in. by 50 in. Collection of Walter L. Barker.

after covering the Kansas "Border Wars" for the *New York Herald*, he wrote a well-received book on the dispute over the role of slavery in Kansas territory. In 1857, he implored William L. Marcy, former war secretary and now secretary of state, to engage him as a secret envoy; Central America, he thought, would be nice. In 1859, he was ordained as a Baptist preacher, having, some say, already studied law. He left a congregation in upstate New York to serve as

a Civil War aide to Rufus Saxton in South Carolina. Even there, Brewerton painted, published his poem in the small Union presses that sprung up in military departments, and wrote the lyrics to a patriotic song, *God Save The Union*. It was not understatement when the press remembered him as "a remarkably versatile man" when he died nearly forty years later.⁷⁹

This versatility extended to Brewerton's studio

While living in Newport in the 1850s, Brewerton turned his attention to two centuries-old artistic media—pastels and silverpoint. In silverpoint, a fine silver thread is held by a stylus and applied to paper that must be specially prepared to accept the metal. It is a method that demands patience, a characteristic one does not associate with Brewerton, but a trait he must have been able to summon when consumed by his art. In some instances, “George D. Brewerton, Artist, in Oil, Pencil or Pastel” combined media for a rich blend of color and texture.⁸⁰ But while he could charge a commanding fifty dollars for framed twenty-by-twenty-six-inch pastel scenes in his studio, Brewerton’s pastels were, and perhaps still are, considered less than serious. Today, Brewerton tends to be remembered for the tall bread-and-butter pastel views (often of California) that appeared in his later career, but many of his earlier pastels are as skillful and dramatic as his best oils.

California never left the artist’s easel or his imagination. He sent *Golden Gate, Calif.* to the Leeds Gallery in New York in October of 1860. *Coast Scene, Over California* and *The Great American Desert* were among six large paintings (including *Early Morning on the Rio Grande*) he sold in Boston in early 1869. In the early 1870s, he sent *Sudden Squall on the California Coast Near Pt. Conception* (1871) and *Rocks on the California Coast* (1875) to the Brooklyn Art Association.⁸¹ He found a ready audience for his reminiscences among his fellow California pioneers, some of whom founded the Associated Pioneers of the Territorial Days of California in 1875. In 1878, at a dinner given by the New York-based society for John C. Fremont and his wife Jessie (whom Brewerton had known for decades), a crowd of members urged a tall and finely formed man “with grizzled hair and whiskers” to speak. Douglas Brewerton rose and was nearly moved. He wondered aloud: Was the evening all a dream? His friends’ reminiscences, he admitted, had transported him to “the scenes of his younger days.” Then, “polished in his language,” he related a Carson tale—two hundred fifty Apaches versus Kit, Brewerton, and their little band. An old

friend of Brewerton wrote that the dignified artist who spoke “would hardly be recognized as the same person whose portrait adorns the front of a work on Kansas published in 1856, dressed in buckskin shirt, cap and pants, with a rifle over his shoulder.”⁸²

Sometime in the 1880s, Brewerton moved to Nebraska, where in 1885 he ended a troubled second marriage that had begun in 1874, within months of his divorce from Fannie Whiting Brewerton, his wife of more than a quarter-century. His second wife apparently had doubts about her union with the artist within a year of their marriage. From around 1875 to 1884, according to her husband, she had occasionally “struck, beat and maltreated” him “without any . . . provocation on his part” and had taken to swearing at her spouse. In 1880, while he was sick in bed, she had thrown “a pail full of liquid manure” on the artist, and once beat him with a stove poker. In 1885, Douglas Brewerton filed for divorce against his wife who, in fairness to her cause, had left the state and did not reply to his assertions.⁸³

By July of 1887, the artist, nearly sixty, and his new wife, Sarah, sailed into San Francisco Bay on what he called his homecoming. He wrote:

A word for your city where fate brings me back,
As a traveler turns to retrace his old track,
Or perchance as a suitor again seeks the side,
Of his first love to kneel after wandering wide.
As I drifted again through your grand Golden Gate,
Like a waif on that tide most restless of fate,
I realized the wonder Aladdin might feel
As the cave opened wide its gems to reveal.⁸⁴

In September, on the anniversary of California statehood, Brewerton was a keynote speaker at an outdoor celebration hosted by the California Pioneers. Before beginning his reading, he congratulated his “audience upon the fact that the selection of a [redwood] grove for to-day’s celebration provides abundant opportunity for anyone who may grow weary during the reading of my poem, to retire without exciting special observation.” In more than twelve hundred lines of verse, Brewerton coursed between humor and eulogy, reminding the crowd of life in



G. D. Brewerton, *Untitled* (detail), pastel on paper, 23½ in. by 35½ in.
Collection of Marc and Lyn Cohen. Photograph by Amanda Cohen.

1840s California and, in some cases, the deaths of its memorable participants. Brewerton remained in San Francisco, and delivered another talk later in the year to the California Pioneers, this time on Kit Carson.⁸⁵

In November of 1888, the San Francisco press reported that "Brewerton has deserted the studio for the real estate office."⁸⁶ He was soon in Tacoma, Washington, a burgeoning fifteen-year-old city at the head of Commencement Bay. In 1891, Brewerton opened a studio and, old-timers recalled, sold his popular pastels of California.⁸⁷ The next year, he and Sarah returned to Brooklyn as Brewerton completed his two-volume history of the state of Washington, published in New York a year later. Starting with the

travels of Columbus, the author advances through five centuries of exploration in the first volume, noting that it had been his own fortunate lot to

... follow the steps of these explorers in the years gone by; to gaze upon the island washed by the seas where Columbus saw the light upon the shore; to skirt the coasts and enter the harbors where the adventurers of Spain sought for gold; to sail the seas of Gray and Vancouver, and follow on horseback the paths from ocean to ocean of the early voyageurs."⁸⁸

In the second volume, he tells short histories of the state's towns and counties, adding often chattel biographies and, of course, his verse, one a poem the

cludes a "rhyming review" of every county in the state of Washington.⁸⁹

Before long, however, Sarah appears to have returned to their Tacoma home alone, and a new generation of Brooklyn residents became familiar with the aging Brewerton's "genial nature and courtly figure."⁹⁰ When not in his studio, he gave lectures on "Indian subjects" at local schools, "having had personal experience with the Red man, and telling of it in a clear and interesting manner."⁹¹ Age and infirmity overtook Brewerton's energy and grandiloquence, until he died of pneumonia in Brooklyn on January 31, 1901. The press noted that he had ended his career as an artist the same way he began it—painting scenes of California. Brewerton's California experience had cast the mold for the man. Forty years after his first arrival there, his bonds to the state were heard in this verse, read to his fellow pioneers:

Let me halt while I may, lest our orator wait,
And toast with full bumper this Grand Golden State;
The State that you founded and made so secure,
While justice unbought and fair truth shall endure,
Whose pillars rest firm as the mountains that rise
Where Oregon peaks lift their snows to the skies;
Eternal as Ocean, whose blue billows sweep,
And lave with their bright foam, Pacific's bold steep.
Then a cheer for the State, the glorious State,
That knows through the wide world no rival or
mate.⁹²

CHS

Notes beginning on page 76

The founding artists of the Boston Art Club (1855) and artists of the pre-railroad American West are the primary research interests for Jourdan and Fraser Houston. Jourdan Houston is an alumna of Mount Holyoke College and has an M.A. from the University of Vermont. Fraser Houston, an emergency room physician, graduated from Amherst College and Boston University School of Medicine. His article on Cadwalader Ringgold, USN and the gold-rush surveys of San Francisco Bay recently appeared in *California History*. The Houstons live in Durango, Colorado.



G. D. Brewerton *Untitled*,
pastel on paper, 36 in. by 16 in.
Private collection.

THE START OF SOMETHING BIG

Theater Music in Los Angeles, 1880-1900

by Kenneth H. Marcus

A DYNAMIC MUSIC CULTURE

Just as there is no business like show business, there is no musical metropolis like Los Angeles. The city has become the epicenter for entertainment in America. Almost every type of musical tradition has flourished within its environs—from symphony, opera, ballet and chamber music, to jazz, rock, country, rap, and Latin music. Los Angeles has also become a prominent site for the production and broadcasting of music through a variety of media, including film, radio, recordings, and television.

The city's dynamic music culture of today has a historical background stretching for more than one hundred years. During the 1880s and 1890s, when Los Angeles experienced a real-estate boom and a huge increase in its population, professional musicians from Europe, the East Coast, the Midwest, and Mexico came to southern California in growing numbers. Ease of transport dramatically increased access to the region, thanks to a branch of the Southern Pacific arriving in Los Angeles in 1876 and a transcontinental route built by the Santa Fe Railroad arriving in 1885.¹ Musicians came for the professional opportunities that were increasingly available in Los Angeles, and among other achievements, they formed the core of professional orchestras that were the predecessors of the now world-class Los Angeles Philharmonic.

Much of the city's entertainment took place in its theaters. By the late 1880s, several major venues

could vie with those in San Francisco and San Diego—as well as in Eastern cities such as New York and Boston—both in terms of quality of the theaters and the quality of performances. Eager to fill these venues, managers booked a wide variety of shows, from vaudeville to opera. Profit was one incentive, but so was the idea of boosting the city's cultural offerings and hence its image; the arts, such as music and drama, proved to a growing public that the region was now “civilized.” A sure enticement to bring people out West was not merely good hotels, restaurants, running water and bathrooms, but also different kinds of entertainment. A comment by one patron at the time was apt: with the opening of a new theater the city had become “quite metropolitan to be sure.”²

A discussion of theater music during the boom years in Los Angeles leads us to pose a few questions. Who were some of the most popular performers? What did they perform? And who made up the audiences that came to the theaters? During a time when migrants from the Midwest and East Coast were filling the ranks of the city's population, we would expect them to demand entertainment similar to that which they had enjoyed “back home.” But how did that entertainment take shape? From an analysis of theater programs and a comparison with newspaper reviews, we can seek to recreate the vibrant musical life that Angelenos enjoyed by the late nineteenth century.



Plays, operettas, and vaudeville were performed at the thoroughly modern Grand Opera House on Main Street, which opened on May 24, 1884. Its safety and comfort features as well as excellent acoustics harkened a new age for theaters in Los Angeles. *Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*

THEATRICAL VENUES

Several theaters existed in Los Angeles even before the boom years. These venues catered directly to the city's Hispanic inhabitants—far more than was the case in San Francisco. One of the first theaters, Sanchez Hall, was built in the early 1840s near Los Angeles Plaza. According to one visitor, it was painted out in the most comical style with priests, shops, saints, horses and other animals—the effect was really astonishing.³ Another early venue was Stearns's Hall, which the real estate developer and little baron Don Abel Stearns built on Los Angeles

Street in 1858, and which originally formed part of his adobe residence, "El Palacio." Among the groups appearing there were the six-member California Minstrels, who performed comedy with violin accompaniment, and the Isidoro Máiquez Company from Mexico, which used music in its plays.⁴

The founding of three more theaters marked a growing interest in the arts. Not long after the opening of Stearns's Hall, a local merchant, John Temple, built his own theater, which formed part of a multipurpose edifice that mainly consisted of the city hall, courthouse, and city market. Located on the second floor of the building, the theater was evidently both

small and poorly ventilated, though it did have arm-chairs and raised benches. By contrast, a strong rival to the Temple Theater was the Merced Theater, or Teatro Merced, built adjacent to Pico House in December 1870. Able to seat four hundred people, it was ninety feet long and about thirty-seven feet wide, had four boxes near the stage, and curtains of red plush and gold fringe. However, the theater's acoustics were unimpressive, and while a new owner, J. H. Wood, took it over in 1876, it closed two years later.⁵ Somewhat more inviting was the Turnverein Hall, which the city's German immigrants opened in September 1872. It consisted of a two-story, wooden-framed hall in what was increasingly becoming a thriving downtown area, on Spring Street between Second and Third streets. The venue was fifty feet long and twenty-six feet wide, and while smaller than the Merced, its seating capacity also was four hundred people. With better acoustics than its predecessors, the hall immediately became the city's main site for music performances, such as those by violinist Ole Bull and the opera diva Madame Fabbri.⁶

Yet Angelenos were not satisfied. In 1881, an editor for the *Los Angeles Times* compiled a list of "What the Times Would Like to See." Heading that list was "A first-class theater." The following year, a local drama critic noted that "Los Angeles would support a good troupe if there was a suitable theatre in this city." Similarly, one resident of Los Angeles, Clara Brown, wrote as late as 1883 that "Temple theatre is not a structure to be proud of, and the theater . . . nothing more nor less than Turnverein Hall, is so inferior that good troupes do not often visit the city. Los Angeles claims a population of more than 20,000 now . . . and it seems as if such an aspiring place ought to build and support a first-class place of amusement."⁷ She would soon see her wish become a reality.

In the space of four years the creation of three remarkable venues utterly changed the music culture of Los Angeles: the Grand Opera House, Hazard's Pavilion and the Los Angeles Theatre.⁸ With the opening of the Grand Opera House on May 24, 1884, Angelenos at last had a theater of which they could be proud. The huge venue was replete with



The tenor Francisco Collenz sang the title role of *Otello* in Los Angeles. He was a member of the Del Conte Italian Opera Company of Milan, which made its first southern California visit in 1897 and played for two weeks. Among its achievements was the first performance in North America of Puccini's *La Bohème*. Seaver Center for Western History Research, Natural History Museum of Los Angeles County.

modern conveniences, such as electric lighting—an enormous advantage over gas, which could quickly make a room hot and stuffy. There were also a number of safety features that must have impressed patrons, including the installation of fire hydrants. According to one description, "the facilities for rapid exit consist of forty two feet of doorways. In addition there are twenty five windows, one tier on the ground floor, and one on the balcony floor." Impresario Lynden Behymer (1862-1947) later wrote that the Grand Opera House was "the one theater in Los Angeles whose acoustics are perfect; and there is not a seat in the house from which one does not have full view of the stage." Moreover, the rows of the theater were "placed far enough apart so they may be passed between with comfort."⁹ For good measure

the owner, Mr. O.W. Childs, later added a gallery, a hall near the entrance, and new seats downstairs to attract more customers.¹⁰

Hazard's Pavilion was another important venue, located downtown at the northeast corner of Fifth and Olive streets. Mayor H.T. Hazard and an associate, George H. Pike, built the wooden hall in 1886 to serve a variety of purposes.¹¹ With a seating capacity of 4,000, it was larger by far than the Grand Opera House in San Francisco (2,020 seats), and

became the preferred site for religious revival meetings, speaking engagements, boxing matches, and other popular events that attracted immense crowds. Despite the impressive size of the venue (120 by 166 feet), however, the acoustics were probably unremarkable. The original building was eventually torn down, and a large auditorium was built on the site in 1906. Once it became the home of the Los Angeles Philharmonic Orchestra, its owners renamed it the Philharmonic Auditorium.



Built in 1886 on the northeast corner of Fifth and Olive in downtown Los Angeles, Hazard's Pavilion was sometimes called the Academy of Music. A multipurpose center surrounded by lush gardens with seating for four thousand patrons, Hazard's was the city's premier venue for major musical events, visiting speakers, and prize fights. In 1905, the building was razed to make way for the Auditorium, which became home to the Los Angeles Philharmonic. *Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*



The elegance and luxury lavished on the décor of the Los Angeles Theatre compared favorably with theaters in San Francisco, New York, and Boston. In this montage, clockwise from left: the lobby and box office; the main entrance; orchestra level seating, also showing loges and boxes; and a view of the entrance from Spring Street. *Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*

One of the city's most luxurious theaters was the Los Angeles Theatre, a landmark in elegance. It opened on December 17, 1888, and was even more beautiful than the Grand Opera House. Of the interior, a contemporary writer stated that on either side of the stage, which was forty by sixty feet, spectators could find "circular proscenium boxes most artistically arranged. The boxes are in bronze, white and soft red colors, terminating in a canopy top and draped in front in silver, blue, scarlet and copper plush, lending a delicious effect that is only heightened by the rich surroundings." Nor were the ameni-

ties of patrons forgotten; on the back of each box was "an alcove with a dressing-room attached; adjoining them on either side is a large Patti [*sic*] box holding sixteen persons—arranged especially for theater parties. The walls of the boxes gleam and glisten in plastic relief work in bronze, silver and copper, that adds greatly to the rich effect." Significantly, the theater had electric lighting, like the Grand Opera House nearby, as well as very comfortable seating. All of the chairs were upholstered "in scarlet plush with a gold plate bearing the number on top of the seat. The dress circle contains twelve lodges [*sic*]

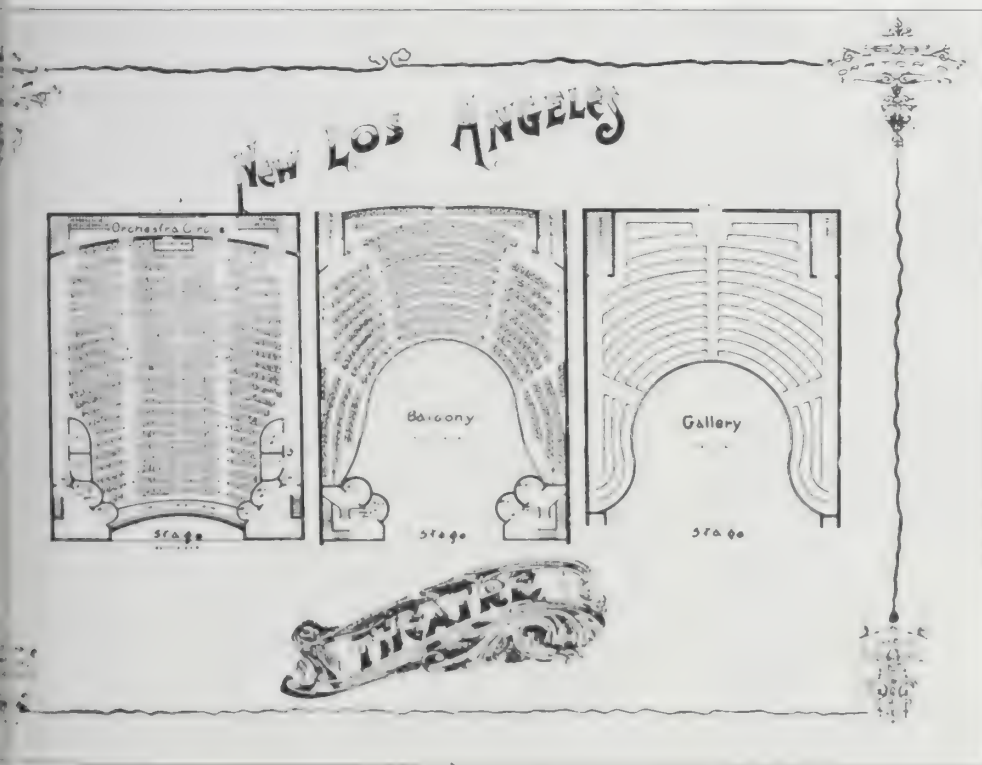
ating four persons, arranged in a semi-circle and bolstered in soft scarlet plush. Bronze columns support the balcony."¹² Virtually no expense was spared, and the designers, who had also constructed the city's Grand Opera House, the Pasadena Opera House, and the Alcazar Theater in San Francisco, had planned the hall with every convenience possible at the time.

Why build these theaters? The growing size of the Los Angeles population, coupled with the relative affluence of many of its citizens, meant that there was an increasing demand for fine entertainment in beautiful surroundings. Professional-looking theaters brought a sense of cultural pride, and from very modest beginnings the city could eventually boast several that rivaled others in California. In number, San Francisco had far more, but Los Angeles was

on a par with San Diego, which had four theaters by the 1890s. Above all, Angelenos' almost insatiable desire to attend shows was excellent news for both touring and local troupes, all providing the city's inhabitants with an almost endless stream of music.

MUSICAL REPERTORIES: VAUDEVILLE AND BURLESQUE

Two of the most common forms of entertainment in America during the nineteenth century were vaudeville and burlesque. Vaudeville, whose roots date back to fifteenth-century France, was variety entertainment, mixing song, dance, and comedy. Performers were often Irish, Italian, German, and Jewish, and while they may have anglicized their names, their humor was frequently racial in content.¹⁴ This type of humor gave rise to stereotypical, stock characters, such as the Irish drunk or the Ital-



At the Los Angeles Theatre, which opened in 1888 catering to an avid audience, there was a seating capacity for more than 1,400 people. An 1898 seating chart shows loges and boxes for wealthy patrons, orchestra seats, more modestly priced places in the balcony, and also the crowded "cheap seats" up in the gallery, where 540 theatrical fans huddled together. *Source: Center for Western History Research, Natural History Museum of Los Angeles County.*

ian lover, and on occasion combined with another popular form: minstrelsy. Vaudeville was, above all, interactive; audiences' responses immediately determined the success of a joke, song, or act.

Particularly in the early years, the quality of theatrical performances could be uneven. An example of one traveling group was the fancifully titled "Prof. Herrmann's Trans-Atlantique Vaudevilles," which sought to entertain patrons with song and dance. A critic of one performance, however, noted that the orchestra "seems to have gotten restive during the vacation. In accompanying [the soloist] Miss Vance's songs they became utterly unmanageable and individually and severally they began a mad race to keep ahead of her until the finish. It is needless to say that they succeeded in their cacophonous intent, although the vocalist was almost winded when she reached the post."¹⁵

As the popularity of vaudeville increased, its primary location in Los Angeles became the Grand Opera House, which changed its name to the Orpheum in 1895. Billed as "Los Angeles' Society Vaudeville Theater," every night a series of acts would hold forth on the stage. The *Los Angeles Times* reported that since the Orpheum's opening on January 2, it had played "to an audience that packed [the house], not only every seat from the footlights to the gallery stairs, but standing-room was selling at a premium, and the crowds continue to flock in that quarter." During one evening's performance, we find a number of different acts: Price & Lloyd, a male and female team who sang songs; George Evans and Haverly, an acting duo; the Big Four, with "knock-about feats" that are "excruciatingly funny and are worth going miles to see"; the McCarthy and Reynolds dancing team; Thomas and Welch as dancing artists, and the aerial artist and acrobat Calcedo.¹⁶ This was variety entertainment in the true sense of the term, with the purpose of reaching a wide audience of men and women.

Not all types of entertainment catered to a general audience, however. Burlesque, for example, which originated in late-seventeenth and early-eighteenth

century England, usually involved parody and exaggerated imitation. It frequently served as a low satire of "high" culture, with women performers in various stages of undress. An extremely popular burlesque performer of the era, on both the East and West coasts, was British star Lydia Thompson, whose troupe, the "British Blondes," first came to America in 1868.¹⁷ During a North American tour in 1888, Lydia Thompson's company of sixty female and male performers seems to have utterly enchanted Angelenos. It performed the burlesque *Penelope*—a parody of Homer's *The Odyssey*—by the team of H. P. Stephen and Edward Solomon, which a newspaper reporter noted "filled the Grand opera house almost to overflowing last night . . . The burlesque is very pretty indeed and the comedy element provocative of much

laughter."¹⁸ Certainly the women's costumes, which revealed much of the female form beneath tight and skirts, were part of the company's main attraction. The writer did not note whether the male form had been provocatively revealed as well.

Minstrel acts also made their appearance, several of them African American, often with their own orchestras or music ensembles. One of these troupes was the Creole Burlesque Company, which featured a show enticingly titled "Tropical Revelries." A reviewer noted that the "olio was of the conventional minstrel kind," and that "some of the female members of the company are rather *passé* and lack the verve and snap to make a stage appearance attractive." However, one of the best features of the program seems to have been the "challenge dancing contest" which closed the show. "It was full of genuine darkey 'go' that has music and tune in every foot patter," the reviewer exclaimed. "The antics of a colored brother on a sanded floor have a charm that wins the applause of even the blasé theater-goer, and this particular part of the programme was equal to anything of the sort seen here for a long time."¹⁹

Vaudeville eventually surpassed burlesque in attracting plentiful audiences, which was music to theater owners' ears. The quality of performance

"Every seat in the house was sold long before the doors opened. . . ."

proved demonstrably by the end of the nineteenth century, enabling the critic for the *Los Angeles Times* to write confidently in 1895 that "this class entertainment is gradually attracting to it some of the best talent of the amusement world."²⁰ Night after night, if management hoped to fill the house it presented what the public wanted: song, dance, and comedy.

MUSICAL REPERTORIES: OPERETTA

Operetta enjoyed immense popularity in Los Angeles. Like vaudeville, the modern operetta probably originated in France, evolving directly from French comic opera of the 1850s, then becoming widespread throughout Europe before coming to America.²¹ Some of the most frequently performed works in Los Angeles were by an international roster of composers, including the Viennese Franz von Suppé (1819-1895), the American Reginald De Koven (1859-1920), and the Briton Arthur Sullivan (1842-1900), of Gilbert and Sullivan fame.

Although composers hailed from different countries, American companies usually performed most of the operettas that appeared in Los Angeles. One of the most popular of these was *The Bostonians*, which traveled to the city on at least five occasions from 1889 to 1895, and received special praise for its professionalism. One production given on April 9, 1901, was *Fatinitza*, with music by Franz von Suppé. The theater critic for the *Los Angeles Times* noted that the rendition last night was up to the high standard established by the *Bostonians*, and gave very evident satisfaction to the large audience. There is a neatness, precision and a finish to the work of this organization that afford eloquent proof of long practice and careful rehearsals."²²

The same company repeated its success two years later, this time with operettas by Reginald De Koven, whose music enjoyed phenomenal popularity during the late nineteenth century. "The *Bostonians* opened in *Robin Hood* last evening at the Los Angeles Theater to one of the largest Los Angeles audiences ever within its walls," reported one reviewer. "Every seat in the house was sold long before the doors opened, but the attraction had sufficient draw-

New Los Angeles Theatre

H. C. WYATT, MANAGER

PROGRAMME

Wednesday, Thursday, Friday, Saturday Evenings, and Saturday Matinee, Nov. 13-16,

THE ORIGINAL FAMOUS BOSTONIANS

BARNABEE & MACDONALD, Proprietors
Direction FRANK L. PERLEY.

Wednesday and Friday Evenings and Saturday Matinee,

Robin Hood,

By REGINALD DE KOVEN and HARRY B. SMITH.

CAST OF CHARACTERS

Sheriff of Nottingham	Henry Clay Barnabee
Robin Hood	Harold Blake
Little John	W. H. Macdonald
Will Scarlet	Eugene Cowles
Allan-A-Dale	Jessie Bartlett Davis
Friar Tuck	George Frothingham
Guy of Gisborne	C. E. Landie
Maid Marion	Helen Bertram
Dame Purden	Josephine Bartlett
Annabel	Alice Neilson

SYNOPSIS.

ACT I—Market Square, Nottingham, England.

ACT II—Sherwood Forest, England.

ACT III—Courtyard of the Sheriff's House.

Program Continued on Page 6.

The Draperies on the Stage are from Farrell & Co., 324 So. Spring St.
The Mantels on the stage are from the Tuttle Mercantile Co., 308 & 310 South Broadway.
The Bric-a-Brac on the stage is from Z. L. Parmelee Co., 232 & 234 South Spring Street.

One of the most beloved troupes to appear in Los Angeles during the 1880s and 1890s was *The Bostonians*, which excelled in operettas. At the Los Angeles Theatre in November 1895, they presented one of the most popular operettas: composer Reginald De Koven's *Robin Hood*, which *The Bostonians* had premiered in New York four years before. *Courtesy The Huntington Library.*

ing power to make standing room appear to be something of a favor to those who could not find seats." The show was an immense success: "Never was an opera presented to a more enthusiastic

[group] of theater-goers, and it is safe to say [that] never was one more perfectly rendered in every detail to a local audience than was *Robin Hood* last night."²³ The company was apparently familiar to many in the audience, who greeted each principal performer with great applause, and even called for a series of encores. This was popular entertainment in every sense of the term, and the public duly showed its appreciation.

Novelty acts were common on the stages of nineteenth-century America. One traveling group that had enjoyed substantial success in New York consisted entirely of dwarfs, who called themselves The Liliputians. They claimed to be the "ten smallest actors in the world," ranging from eighteen to forty-three years of age, and from twenty-eight to thirty-eight inches tall.²⁴ The troupe put on a comic opera called *Candy*, with the unusual subtitle *The Dwarf's Wedding At the Court of Peter the Great*. It consisted of four acts, which included four ballets, a burlesque, and comedy throughout. Commenting on the show, a reviewer noted that "those charming midgets" managed

to draw a capacity audience that seemed to show a peculiar fascination with such acts. "The little folks are the most novel attraction now before the public," the reviewer stated, "and when one sits through an evening with them he does not wonder that they have been the recipients of the vociferous plaudits of every audience to which they have played, and the lavish encomiums of the press of every city in which they have appeared." The dwarfs were not merely a novelty, but could sing and dance on a par with other visiting troupes.²⁵

Other productions were designed to appeal specifically to children. *The Brownies in Fairyland* seems to have featured almost solely children in a huge cast of over one hundred members. A *Los Angeles Times* critic stated that the actors "took their audience by storm at the Los Angeles Theatre last evening, and the large number of people present went away well

pleased at the queer freaks of the little folks." The production featured primarily songs and dances with the actors dressed in ornate costumes. To assure patronage by youngsters, the theater manager arranged a "Children's Special Grand Matinee" at 2 o'clock on Saturday.²⁶ Such acts indicate an interest by theater managers to diversify audiences: to attract children as well as men and women.

What about performances by the local talent? While by no means as predominant as traveling acts, gifted local performers had some opportunities to present their abilities. In a rare example of homegrown performers who received top billing, the Los Angeles Operatic Society performed two works by Gilbert and Sullivan: *Patience* and *The Mikado*. C. M. Pyke led the orchestra, and advertisements pro-

claimed "popular summer prices" at seventy-five cents, fifty cents and twenty-five cents.²⁷ The large audience seem to have been appreciative, and one critic even noted the performances by the society "have become far superior to those of the average professional company." As in San Diego, which had the San Diego

A reviewer noted that "those charming midgets" managed to draw a capacity audience that seemed to show a peculiar fascination with such acts. . . .

Amateur Opera Society, Los Angeles had a similar group, the Society Amateur Opera Club, which produced a variety of works. During one evening, local, prominent musician, Professor Adolph Wihartitz, conducted the ensemble, beginning with the third act of Giuseppe Verdi's *Aida*, and ending with *The Marriage by the Lantern*, an operetta by the Parisian composer Jacques Offenbach (1819-1880). These kinds of shows demonstrate that a growing number of Los Angeles musicians and actors, both professional and amateur, had both the ability and eagerness to appear before a wider public. However, the comment in one issue of the Los Angeles Theatre program, *The Mirror*, suggests less than enthusiastic praise for local talent: "We are informed that amateur opera will be an important factor in the entertainment of the Los Angeles public this season. Gee whiz! our seal is doomed."²⁹

ORCHESTRAL MUSIC FOR PLAYS AND OPERA

During intermission at plays, audiences could hear a plethora of music. This had long been the case at San Francisco theaters, such as at the California Theater, the Grand Opera House, the Emerson Theater, and the Baldwin Theater, all of which had their own orchestras. One of the earliest such examples in Los Angeles was at the Los Angeles Theater. Its ensemble of nine musicians (two violins, viola, bass, flute, clarinet, cornet, trombone and drums) performed nightly for theater-goers, and fortunately, many of the pieces they performed were listed in the playbills.³⁰ For a play called *Douglas*, the orchestra, under the direction of Harley Hamilton, performed several works, including the *Près de Toi* waltz by Emile Waldteufel (1837-1915).³¹ Similarly, for a comedy called *My Friend from India*, the house orchestra played several pieces between acts, such as Felix Mendelssohn's *Grand Priest* march and a medley of songs from Verdi's opera *Ernani*.³² Almost all of these works consisted of what we could call Pops programming: light classics, works for the theater, and arrangements of popular songs.

Even music forms that today we tend to consider "serious," such as complete operas or symphonies, then attracted a wide audience, but they did not necessarily fall into "highbrow" or elitist categories during this era. The roots of opera go back to early-seventeenth-century Italy as a courtly form of entertainment, but as the form moved into public theaters, first in Italy and then throughout Europe, plots tended to become more action-filled and passionate. By the nineteenth century, opera had become one of the most common forms of serious entertainment, both in Europe and in America. As musicologist John Koegel has noted, "Italian opera was not always the exclusive domain of the middle and upper classes, for it often attracted a general cross section of society, especially when performed at popular prices."³³

An impressive early troupe to appear in Los Angeles was the National Opera Company, founded by Anne Thurber in New York and led by conductor



Soprano Alice Nielsen was born in Nashville and trained in San Francisco before joining The Bostonians in 1895. She played at least two roles in the popular *Robin Hood*: Annabel in Los Angeles in 1895; and also Maid Marian for the first time during the 1898 season. Seaver Center for Western History Research, Natural History Museum of Los Angeles County.

Theodore Thomas (1835-1905). Its purpose was to make European operas more "American" by using American artists and singing in English. The troupe consisted of more than two hundred singers, dancers, and musicians. Its arrival in May 1887, made possible by a guarantee of \$20,000 by a local wine merchant, received unprecedented response by Angelenos. Performing in the recently-opened Hazard's Pavilion to bring in the largest audiences possible, the troupe gave seven performances, including Gounod's *Faust*, Verdi's *Aida*, and Wagner's *Lohengrin*, to a total audience of between 24,500 and 28,000 people. Unlike in San Francisco, where the company recorded a financial loss, it made a profit in Los Angeles by charging \$1 to \$4 per seat. While we can imagine that many concert-goers went to more than one performance, the total number of tickets sold (22,000



A long-time star of The Bostonians, contralto Jessie Bartlett Davis was a veteran performer of grand opera and the lyric stage by the time the troupe traveled to Los Angeles in the 1880s. An Illinois native with early training from her choirmaster father, she was called the "Song Bird of Chicago" before she debuted in Gilbert and Sullivan's *H.M.S. Pinafore*, followed by a stint with the American Opera Company. *Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*

to 25,000) took place in a city whose total population was a mere 50,000 people.³⁴

American opera itself was no stranger to Los Angeles during this period. Henry Waller composed the music for *The Ogalallas*, which was billed as "A New American Opera," with a libretto by Young E. Allison. Based on an American Indian tribe, this work appears to have crossed over the line from light opera to more serious fare. A reviewer commented "that *The Ogalallas* is far nearer being grand opera than it is the lightsome thing which passes as opera comique." One reason was that the main character, an Indian named

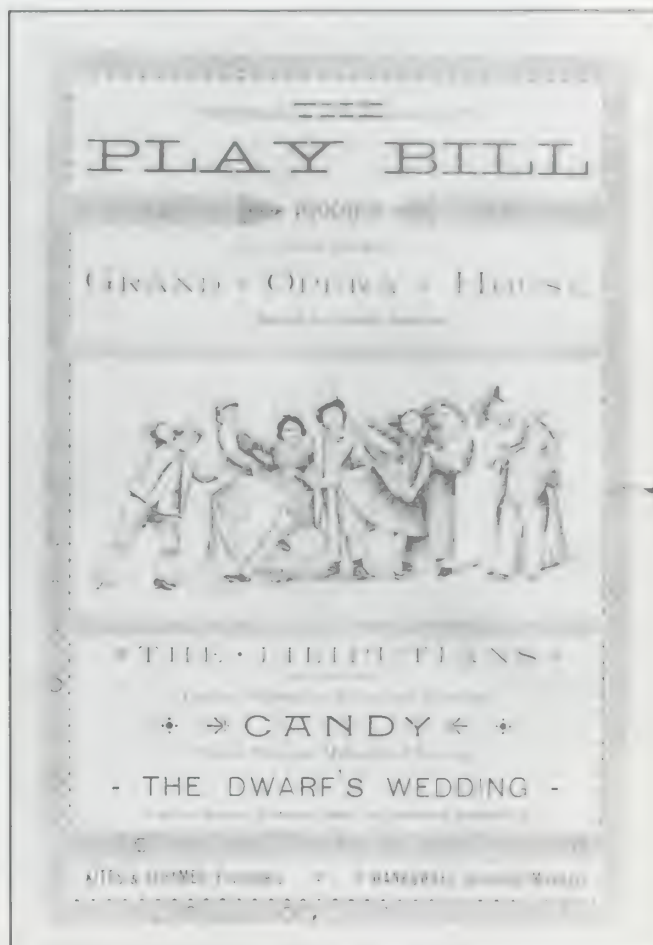
War Cloud, had "such an air of haughty pride and reserve, as to make the lugging in of sufficient comedy to make Allison and Waller's creation pass as light opera appear incongruous." The Indian, performed by H. MacDonald, in fact got top marks: "They walked upon the stage of the Los Angeles Theater last night a noble red man right out of the pages of one of J. Fennimore Cooper's novels . . . No one who saw *The Ogalallas* last night will question the thought that the central figure in it is this typical Indian warrior. The company, The Bostonians, was unfortunately better versed in light opera, and the opera was "far and away beyond the capacity of many of the voices which sang in it last night."³⁵ Nonetheless, it represented a distinct attempt to present a European dramatic form within an American context.

A remarkable achievement was the first performance in the United States of Giacomo Puccini's *Bohème*, in 1897. Treasurer and co-manager of the Los Angeles Theatre, Charles Modini-Wood, made the event possible by visiting the troupe, the Del Coni Italian Opera Company of Milan, during its appearance in Mexico. Fluent in Italian, Modini-Wood persuaded the performers, who apparently could speak no English, to stop off at Los Angeles on their way up to San Francisco. The first of three performances was held at the Los Angeles Theatre on October 11, 1897, before an audience of 532 people, primarily native Italian and Hispanic. Although the company took in only \$327.70 in box-office receipts, the event represented a milestone in the performance of European opera in southern California.³⁶

These examples show the broad appeal that opera elicited in Los Angeles. It is difficult to imagine opera companies crossing thousands of miles to perform for a public on the West coast, much of it with perhaps little knowledge of the genre. However, the soprano Emma Juch, who appeared with the National Opera Company, commented on her own reception: "Oh I'm in love with [the Los Angeles] audience . . . Just think, they have been there since 7:30 [p.m.], and we won't let them go home until 2 o'clock in the morning . . . I don't believe there is another audience in the world that could be held in their seats three hours waiting for the curtain to go up."³⁷

In the late 1880s fledgling symphony orchestras also began to make their appearance in Los Angeles. They debuted in local theaters, which enjoyed a consistent and loyal public. One of the earliest of these attempts was the creation of the Philharmonic Society, consisting of forty musicians and a chorus. Adolph Willhartitz, a professor of music, founded the orchestra in 1887, and presented its first concert in September the following year.³⁸ While the venture lasted only one season, his successor, Professor A.J. Stamm, did somewhat more success. Stamm, who first appeared in a brass band in Pasadena in 1883, took over as music director of a renewed Philharmonic orchestra offering an annual season of four concerts. The orchestra this time lasted two seasons; its first concert in 1893 took place on January 9 at the Grand Opera House, and the end-of-season concert, billed as the "Fourth Grand Concert," was performed at the Los Angeles Theatre on May 29.³⁹ Similarly, another orchestra of sixty musicians gave a "Grand Orchestral Concert" under the direction of George Felton. Using the Pops concept of the Theme Night, the orchestra booked the Los Angeles Theatre for both an "Opera Night" and a "Popular Concert."⁴⁰ Serious music or no, these ensembles had to appeal to as wide an audience as possible, and they paved the way for the two major orchestras which were to follow: the Los Angeles Symphony Orchestra (1897-1920) and the Los Angeles Philharmonic (1919-present).⁴¹

The use of theaters as symphony venues might appear unusual, given their reputation for staging burlesque and other forms of mass entertainment. However, since concert halls scarcely existed, and without the certainty that a symphony orchestra could yet fill a concert hall, those patrons truly interested in classical music had to be content with the few choices they had. Among the few other venues for orchestras to give such concerts were the local churches. To secure a steady income, musicians in these ensembles earned a living at least in part by also performing in the orchestras of theaters, much like their later brethren earned a living as musicians in the film studios. As a result, audiences of both kinds of music, light and serious, could benefit from the diversity of talent.⁴²



A remarkable and very special troupe from Germany consisting solely of dwarfs and called The Liliputians, first came to Los Angeles in 1891. The company was a smash hit on both coasts, both for the novelty of its members' small stature as for the high quality of their singing, dancing, and acting skills. *Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*

AUDIENCES FOR THEATER MUSIC

An essential, if often overlooked, aspect of theater history is the character of the audiences who attended the theaters. Newspaper reviews occasionally mention the size of the audience but rarely its makeup. To identify this population, one approach is to examine the advertisements that fill the pages of theater programs. As they continue to do today, advertisements helped pay for the programs, and since local businesses consistently placed

1887

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A Full Line of Spectacles and Eye.

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Shave and Shampoo, 15c. Six Baths, 50c.
The barber parlors at No. 16 Beignier street offers superior attractions to the public. The parlors are fitted up in the most elegant and complete manner and guests are certain of most attentive and satisfactory attention. Special care is given to perfect cleanliness in both the shaving and bathing departments. The towels are clean and white, and the most experienced men are employed. Portable shampoo bowls are supplied, and shaving and shampoo for fifteen cents. This establishment is superior to any parlors on the coast, and is
Beyond Anything in Los Angeles
S. C. PIERCE, PROPRIETOR.

Between Acts Drink Napa Soda Lemonade, Ice Cold in the Ante-Room.

The National Opera Company, with conductor Theodore Thomas as music director, traveled to Los Angeles on its western tour in 1887. In seven performances of European grand opera in English, the two-hundred-person company was a huge smash at Hazard's Pavilion. Between 22,000 and 25,000 tickets were sold in a city of about 50,000 inhabitants. *Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*



The Los Angeles Theatre was the site of traveling company performances and locally based orchestral musicians' programs. The canopied boxes and deluxe loges framed the neoclassical stage and proscenium at the downtown Spring Street location. *Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*

ich advertisements to attract customers, an analysis of these ads offers more than just an understanding of the relationship between commerce and music; it also helps us assess the population that attended these performances.

A substantial proportion of advertising was placed by businesses in the "theater district." The Los Angeles Theatre, Hazard's Pavilion, and Grand Opera House all stood in downtown Los Angeles, in the heart of a thriving business district. Many shops and eateries located near these venues sought to profit from the increase in pedestrian theater traffic. Food services, especially, were bound to benefit from theatergoers, so they regularly placed ads in the pro-

grams. "Luxurious Ices, Dainty Creams and Sparkling Beverages" read an ad for the soda shop Christophers. "Best Bread and Cakes in the City" declared the bakery Potters. Owners of another establishment, the Opera Restaurant, located at No. 15 South Main Street, emphasized that the locale was "New, Neat and Clean! . . . This well known and popular Restaurant, by the present proprietors, has been thoroughly remodeled and renovated. Everything is now First Class."⁴³ Directed at a population with certain disposable income, the food industry advertisers pitched to this level of clientele.

As we might expect, theater programs were also ideal for advertisements involving many aspects of

music or dance. These seem to have been oriented primarily toward women, as women generally were known to be the prime buyers of pianos as well as most of the sheet music of the era. One ad encouraged the theater-goer to "Buy or Rent a Piano from Kohler & Chase," while another of the same company's ads in a different theater program claimed to represent the "Largest Importers on the Pacific Coast." Mothers seeking piano lessons for their children could contact "Carlyle Petersilea's Music School," located in the Y.M.C.A. building at 209 South Broadway. Those interested in a dance school could meet with Mr. and Mrs. E.W. Payne, "Professors of Dancing," at the Academy at Illinois Hall. Included in the ad was the inviting notice: "We have had added to our Academy, which is 60 x 90, a Dining Parlor, Kitchen, Smoking Room and Refreshment Room, making it complete for receptions."⁴⁴

These and other advertisements that continually appeared in the programs suggest that many theatergoers were relatively well-to-do, and that a sizeable portion of that audience consisted of women. Advertisers of luxury products and services would not likely have targeted these audiences over an extended period if they did not feel they were reaching the appropriate market for their high-end products. Nor should this trend in upscaling advertising surprise us; men, women, and children all attended the theater, in keeping with a decided effort beginning in the 1880s by theater owners throughout the country to attract more diverse audiences.⁴⁵ It was a reciprocal arrangement; by encouraging people with disposable income to attend the theaters, these patrons also contributed economically to the dynamic business culture downtown. Thus the theaters were good for local commerce, and local commerce was good for the theaters.

We can form several conclusions about the history of musical entertainment in California during the boom years of the late nineteenth century. Los Angeles had theaters similar in quality to those of its rival city to the north, even though San Francisco had a far greater population. While Los Angeles had fewer theaters, its size-

able and growing audience prompted touring acts to make it a stop on their western tours. As a result, the most common forms of entertainment—vaudeville, operettas, plays, and operas—were readily available at admission prices typically ranging from twenty-five cents to one dollar, performed mainly by traveling troupes that toured coast to coast. Local musical talent, while occasionally staging their own productions, appeared more often as members of house orchestras that accompanied many of these acts. During intermissions the musicians performed waltzes, overtures, and arrangements of popular songs, providing theater-goers with further opportunities to hear music. Several conductors were able to bring together musicians from these ensembles to form symphony orchestras, which in turn set the stage for more permanent orchestras to come. Thus by the end of the century, Los Angeles had dramatically improved its cultural offerings to a large and grateful public.

Despite these many successes, however, securing acts and musicians to come to the Southland remained a challenging enterprise. One had to guarantee artists that they would make at least ten appearances west of Denver, otherwise they would not come.⁴⁶ Nor did it help matters that some of the public did not know theater etiquette. Reviewing a series of plays, one critic had particularly harsh words for the audience. "If some supreme power could be put forth to keep a Los Angeles audience seated until the players have finished their lines, the players, as well as a goodly portion of the audience itself, would look upon such an evidence of power as a great boon. Ladies and gentleman, please keep your seats until the curtain goes down!"⁴⁷

The wide variety of music available in late-nineteenth century Los Angeles resulted from the endeavors of many people. Theater owners built beautiful venues to attract both customers and prestigious performers. Theater managers struggled on an almost weekly basis to assure that the quality of entertainment remained as high as possible, certain that if they did not, newspaper critics would likely let their readers know about it the next day.⁴⁸ Yet ultimately, running a theater was a two-way transaction



Candy and ice cream galore beckoned theatergoers in an ad placed in a souvenir program at the Los Angeles Theatre in 1898. The gleaming soda fountain and chockfull glass canisters pictured at Parry & Company's Confectionary Store and Ice Cream Parlor on nearby Broadway were intended as tempting lures to the neighborhood's ticket-holding audiences. *Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*

See notes beginning on page 79.

While managers actively recruited troupes to come and perform, Angelenos had to reciprocate. Men, women, and children did so in droves by attending the theaters almost religiously. Between 1880 and 1900, the music culture of Los Angeles flourished as never before, providing the basis for the city's role in the next century as the nation's epicenter of entertainment.

Kenneth Marcus is assistant professor of history at the University of La Verne. He took his B.A. in history at the University of California, Berkeley, and his Ph.D. in history at Cambridge University. His primary research interest is to place music institutions and performance within their historical context. He is currently writing a manuscript on music in Los Angeles titled Musical Metropolis: Los Angeles and the Creation of a Music Culture, 1880-1940.



An early twentieth-century view of Los Angeles captures a parade of elephants marching down Spring Street. The Lissner Building, located between Fifth and Sixth streets, is evident on the right, marked with white block letters. One of the city's first multi-use buildings, it had shops at street level and offices above. In the midst of the downtown business district and adjacent to public transportation systems, the Lissner Building was conveniently located. Shrewd real estate investments made Lissner a wealthy man, as they did for many other Los Angeles business people. *Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*

The Week the Experts Came to Town

by Mark H. Stevens

Every major American city has experienced a strategic juncture in its growth when it crossed a threshold, shedding the entrapments of local regional parochialism and moving into the fullness of a nationally recognized metropolis. For some cities, such as New York, Chicago, or San Francisco, the metamorphosis was determined by geography, the demographics of migration or immigration, or by specific events in the nation's growth, such as war or technological innovation. Los Angeles crossed that threshold in 1912.

Los Angeles possessed no sterling natural harbor or breath-taking vistas like its sister-city to the North. But, by the early twentieth century it was no longer a parochial town lacking significant attachments to a region or the state. Los Angeles's greatest asset was its dry, warm climate, isolated from the rigorous winters of the Midwest or the East.

The advent of, and competition among, trans-continental railroads between 1869 and the late-1880s stimulated rate wars that attracted thousands of Americans to Los Angeles. Agricultural development of large cooperative off-season crops created the foundation for a burgeoning agribusiness, with Los Angeles its southern California anchor. By the early 1900s local discoveries of oil and natural gas complemented the city's growing economic diversification. The advent of the first world war would witness oil wells producing crude refinable into high-grade motor oil to fuel American war production.

By 1911, the Owens River Valley aqueduct was nearly completed, scheduled to bring millions of gallons of fresh water, daily, to feed a growing population. The aqueduct would generate hydro-electricity,

which the city perceptively municipalized at its inception. Simultaneously, the Los Angeles harbor had already been established and dredged to accommodate deep-drafted, ocean-born vessels, prompting the city fathers to annex the independent municipalities of Wilmington and San Pedro. Los Angeles was now strategically postured to receive an international trade from the Orient and, anticipating the opening of the Panama Canal, an equally lucrative trade from the eastern seaboard and from Europe.

Local transit magnates, such as Henry Huntington, had created the most sophisticated intra-urban railway line in the nation, accelerating Los Angeles's urban transformation into an identifiable, cohesive whole. The building trades flourished as a result of the new migration to Los Angeles, but unionism was virtually suppressed by the power of the *Los Angeles Times*, its owner, General Harrison Gray Otis, and other local, powerful capitalists. Slowly, almost imperceptibly, the city grew, consuming the smaller, independent non-incorporated or newly-incorporated towns—Hollywood, for example—in its path. Public transportation lines were extended into these new districts, as were the unifying water, gas, electricity, and telephone utilities, schools, libraries, police and fire access, all governed by the city's municipal ordinance code.

By 1912, Los Angeles boasted a population of several hundred thousand, with a growing urban skyline. Tourism and the motion picture industry were in their infancy, with the promise of future greatness. The advent of the automobile age would complete the transformation.

Meyer Lissner was not insensitive to these changes and, in fact, welcomed them, realizing their potential for constructive good and for citizens' benefit. He was confident Los Angeles could build a modern, municipal political infrastructure responsive to the needs of an emerging metropolis. Born into an impoverished Jewish family in San Francisco in 1871, Lissner had witnessed that city's maturation into a national metropolis as a young boy in the 1870s and 1880s. He desired the same for his adopted city which had been his home since 1897.

Lissner's father, a pawnbroker, died when Meyer was in his early teens, compelling him to support his mother and two younger siblings. Later, Lissner became a jeweler, an attorney, an entrepreneur, and a real estate developer, accumulating property in downtown Los Angeles, Pasadena, and the Venice/Santa Monica beach area. He built one of the first multi-use, commercial structures in downtown Los Angeles in 1906: the Lissner Building at 528½ South Spring Street.

By his thirty-fifth birthday, Lissner had amassed a fortune and devoted the remainder of his life to public service and municipal reform. Possessing an uncommon intelligence and energy, he was the pre-eminent municipal political reformer in Los Angeles between 1906 and 1913, winning the admiration of supporters and the scorn of his enemies who considered his approach too radical for their conservative tastes. His hand was on the pulse of the city, with a creative genius for organization that elicited charges from enemies that he was a "reform" boss, even more insidious than political bosses, because he was determined to change the status quo.

Lissner was also a maverick with a unique independence of thought and action guided by a businessman's mentality and a sweeping concept of local municipal reform for Los Angeles. He never formulated an overall strategy for success as a member of a lasting Progressive coalition. He believed that Los Angeles was emerging as a modern American metropolis; its political and governmental institutions needed to reflect the efficiency and competence of the industrial base which supported that growth so it could better serve its citizens, and he applied himself ceaselessly toward realizing those goals. Lissner thus charted his own course. If oth-



Meyer Lissner, 1913. This photograph appeared with a biographical sketch of Lissner published in the *San Francisco Bulletin* on March 13, 1913. The article featured the native son, noting his birth in San Francisco and the death of his father when he was only thirteen. As the eldest of three brothers, young Meyer was suddenly head of the household and managed to carry on his father's work as well as finish high school. His younger brother Henry became a medical cardiologist and later chief of staff at Cedars of Lebanon hospital in Los Angeles, which merged with Mount Sinai to become Cedars-Sinai. Meyer Lissner, who studied law and acquired real estate, also made Los Angeles his home. He and his wife Irma were active in the city's cultural and civic life. *Courtesy Department of Special Collections, Stanford University Libraries.*

ers agreed with his strategy, he welcomed them; not, he organized around them without malice.

He had been frustrated by the Southern Pacific Railway's grip on local politics, and how seemingly limitless resources could corrupt politicians toward the railway's agenda of municipal control and away from the public good. By 1906, he had connected with other municipal reformers who shared his

"His hand was on the pulse of the city, with a creative genius for organization that elicited charges from enemies that he was a 'reform' boss, even more insidious than political bosses . . ."

on for the city: attorneys Marshall Stimson and R. S. Avery; Edwin Tobias Earl, owner and publisher of the *Los Angeles Express and Tribune*, and his editor Edward A. Dickson; local businessman and party owner of the *Los Angeles Herald*, Thomas Gibbon; Charles Amadon Moody, editor of *Out West* magazine; a Los Angeles Municipal League founder and officer, Charles Dwight Willard; George Baker Anderson, editor of the *Pacific Outlook*, a Los Angeles-based Progressive journal; and Dr. John Haynes, an early proponent of inserting the initiative, referendum, and recall into the city's organic law. These reformers "and businessmen . . . interested in good government" would form a Progressive municipal coalition attracting thousands of local adherents who, by 1909, would dismantle the Southern Pacific's machine, reform every ward district in the city, and introduce non-partisanship into municipal politics. This ideal of non-partisanship reached its apex in 1909 when the reformers removed the corrupt Mayor Arthur C. Harper through an early, pioneering implementation of the recall device. Additionally, the coalition accomplished the election of most of the city councilmen, executive officials, and board of education members through the Municipal Direct Primary Law and the Good Government Organization, both fostered and locally adapted by Lissner to bring about municipal political reform through non-partisanship.

Perceiving a need, Lissner assumed the initiative to meet it. Ignorance was no impediment to his drive, seeking expertise and guidance for certain areas of his reform interest. For example, Lissner was mentored by Professor William Cary Jones, a University of California political scientist, and a national authority on direct municipal primaries. Lissner moved upon Jones's suggestions for the direct municipal primary that the professor had managed for the city of Berkeley, gathering information on dozens of successfully implemented examples throughout the United States. Lissner then adapted that information to Los Angeles's unique municipal infrastructure, reorganizing the individual city ward units, placing non-partisan reform teams within these units and re-educating the

local voters to become involved in municipal non-partisanship.

By 1911, Lissner had capitalized on the momentum gained from the successful 1906 and 1909 non-partisan municipal campaigns by communicating with friends in Cincinnati regarding their successful city club experiment, gathering information on numerous, successful city clubs throughout the nation and, again, adapting the idea to Los Angeles. The result was the popular Los Angeles City Club, a non-partisan municipal public forum for the exchange and dissemination of information concerning municipal problems and progress. Los Angeles's private utilities had become so burdensome to the body politic through rate wars, varying formulae of valuation, and territorial disputes that Lissner perceived their operations as counterproductive, demanding municipal regulation and coordination. After thoroughly researching other municipal prototypes for regulation of local public utilities, he proposed the first Los Angeles Public Utilities Commission, presenting his thinking in the form of a municipal initiative adopted by the voters in December 1909. Lissner chaired the P. U. C. in 1909, when it was constituted. Later he formed a coalition that beat back a rigorous 1911 Socialist challenge to Progressive Mayor George Alexander's administration.¹

In just a few years, the city had therefore weathered many political storms in shedding a parochial image and had begun to emerge as a modern metropolis. Lissner had grown and matured with his adopted city. He had become intimate with every major national, state, and local Progressive and urban reformer. He was integral to that process of municipal maturation, and he sought a venue for promoting Los Angeles as a nationally recognized city.

Nineteen hundred and twelve would provide that venue. The city would host the National Municipal League's eighteenth annual convention, coinciding with overhauling its obsolete charter. Seemingly unrelated, the two events would merge during a sweltering week in July when the

league devoted an entire day to examining the proposed charter and offered its recommendations. Meyer Lissner played a strategic part in both activities, and brought new honor and recognition to the city by inviting the league to disseminate the largest body of current information on urban reform by America's greatest experts, scholars, and Progressive reformers. The citizens of Los Angeles were therefore afforded rare and exciting opportunities to greet, discourse, and challenge the leaders in this renaissance of modern Progressive urban reform. Ever the pragmatist, Lissner considered an informed public the best bulwark against municipal corruption, an impediment to Los Angeles's forward progress.

Meyer Lissner had admired the work of the National Municipal League for many years and had been a member of its Los Angeles organization almost since its inception in September 1901.² By 1912, the Municipal League of Los Angeles had actively participated with other reform elements in no fewer than four municipal elections and had helped initiate numerous reform innovations,³ such as the aforementioned recall of Mayor Harper. Lissner's restless intellect could not perceive the reformist impulse in Los Angeles as isolated from that actively engaging other American cities. Thirsting for information on Progressive reform projects occupying the attention of his eastern, mid-western, and southern counterparts, Lissner's correspondence had already created a national network of information exchange; it was merely a matter of time before they met.⁴

At its 1910 annual meeting in Buffalo, New York, the National Municipal League elected Meyer Lissner an executive committee member for the ensuing year, recognizing his innovative prowess in municipal reform. Lissner was encouraged that the league's gesture was an overture to West coast cities, and specifically to Los Angeles, to become active in its national outreach, and to share its reform ideas and impulses with the national leadership.⁵

Lissner was invited to attend the league's next meeting in New York in April 1911 as a pretext for inviting the league to hold its annual meeting—usually scheduled for November—in Los Angeles.⁶ In preparation, he proposed that the mayor and the city council extend the invitation to the league. As incen-

tive to accomplishing this goal, Lissner further proposed that the city fathers invite league experts to participate in drafting a modern municipal charter for Los Angeles prior to the convention. Alexander and the city council agreed.⁸

The executive committee selected Richmond, Virginia, for its 1911 annual meeting, but awarded Los Angeles its 1912 annual meeting site, preferably scheduled for June or July.⁹

Unfortunately, the 1911 convention coincided with the heat of the Socialist push for political predominance in Los Angeles via the city's primary and general election. Much to his regret, Lissner reasoned that the critical political situation warranted his remaining in Los Angeles. With the blessing of his longtime friend, League Secretary, Clinton Roger Woodruff, Lissner sent Los Angeles league officer E. O. Edgerton and Charles Dwight Willard at the head of a delegation to Richmond.¹⁰

While Lissner regretted not attending the Richmond convention,¹¹ he now focused on the forthcoming 1912 meeting. He anticipated that no more than one hundred people would attend from the East; the West coast chapters would have to attend to make the 1912 convention an unparalleled success.¹² Woodruff traveled to Los Angeles in February 1912 to assist Lissner. He left southern California visibly impressed by what he had seen and the courtesies afforded him. Lissner successfully left Woodruff with very pleasant recollections, a true booster of the California, and Los Angeles lifestyles.¹³

The National Municipal League would hold its eighteenth annual meeting in Los Angeles on July 8-12, 1912. Together with the local chapter, and the L. A. Chamber of Commerce, the league extended cordial invitations to league members and supporters throughout the nation.¹⁴ A flurry of organizational activity ensued. Appointed to a five member committee on program and arrangement, Lissner sent Woodruff his suggestions.¹⁵ The committee announced the organization of subordinate committees that would present a convention exhibition on current American municipal reform programs, organize a parade and other entertainment, and handle publicity.¹⁶

Woodruff's excitement grew. Having experience

Meyer Lissner and Governor Hiram Johnson posed among the redwoods, ca. 1912. Lissner, campaign manager during Johnson's run for governor, was an early member of the Sierra Club, an avid back-trails hiker, and an ardent supporter of wilderness preservation. *Courtesy Department of Special Collections, Stanford University Libraries.*



the warmth of Los Angeles's hospitality, he encouraged the national membership to attend. The citizens of Los Angeles, he knew, had much to learn from, and much to teach, the league. Program papers would cover topics important to both the Pacific coast metropolises and to those throughout the United States.¹⁷

As the convention approached, Lissner, Woodruff, and other committee members feverishly hammered out a slate of experts, the topics upon which they would speak, and the amount of incentive in monetary compensation that would draw them to Los Angeles. The committee wanted the speakers to specifically address their topics relative to Los Angeles and demonstrate how solutions to the problems described therein might be applied to other municipalities throughout the nation. By mid-May, thousands of formal convention invitations had been sent to league members and, on Lissner's recommendations, Woodruff mailed the balance to noted West coast academic, civic, and governmental officials.

Woodruff and Lissner agreed on most topics involving scheduling and planning but they were passionately opposed concerning the exhibit.¹⁸ A series of photographic montages, documents, scale models, and motion picture displays, liberally seasoned with charts, maps, graphs, placards, diagrams, and other graphics, were to demonstrate various trends in modern municipal reform. Woodruff wanted a national flavor to the exhibition, representing national trends and administered under national management. Lissner fought for regional and local themes, with a scattering of national themes reflecting local concerns, adminis-

tered by local management. He sought to draw the nation's attention to Los Angeles as an emerging metropolis, without diluting the importance of the league as a venue to accomplish this. Lissner persisted and Woodruff relented; their cooperation scored a victory for a locally based exhibition.¹⁹

Los Angeles became a frenetic metropolis during the league's five-day annual meeting held on July 8-12, 1912. Thousands of delegates and visitors poured into Los Angeles, including National Municipal League president, William Dudley Foulke, on his first visit to Los Angeles in forty-two years. Foulke wanted to maintain unity within the league's ranks during an ominous presidential election year, and therefore totally avoided using league prestige or power to endorse any political party or candidate,

"A three-mile procession of employees and equipment wound throughout five miles of the city... [including] steam rollers, street sweeping wagons, sprinkling wagons, and garbage wagons."

respecting Los Angeles's concerns for non-partisanship. He wanted the league to remain apolitical so that it might concentrate on "the cause for better government of cities. . . ." ²⁰ Foulke subscribed to the League's goal of serving as an apolitical clearing-house for American municipal reform ideas, and supported its fundamental vision: the "'moral uplift' of American cities. . . ." ²¹

Some fifteen to twenty thousand citizens lined the streets on Monday morning, July 8, to watch a gigantic parade at the beginning of convention festivities. A three-mile procession of employees and equipment wound throughout five miles of the city. Some thirty-five hundred male city officials and employees representing about \$2 million in annual salaries—and operating municipal vehicles valued at \$5 million—marched in the parade. Equipment on view included steam rollers, street sweeping wagons, sprinkling wagons, and garbage wagons. Various municipal departments displayed placards revealing an impressive array of statistics to demonstrate Los Angeles's arrival as a modern metropolis.

The city was cast as a modern corporation with thousands of its "stockholders" lining the streets to encourage the city's servants and inspect its property. Efficiency, not beauty, was the parade's theme. ²² The Los Angeles parade was the West coast's first public inspection of any of its cities' governments; its promoters wanted to make it an annual event. ²³

As the convention prepared for its first evening addresses, many delegates settled in at the Hotel Alexandria at 216 West Fifth Street, where there they "were registered, beribboned, and instructed. . . ." ²⁴ Delegates, visitors, and residents congregated at Temple Auditorium at 427 West Fifth Street for the evening speakers, and at seven o'clock the National Municipal League's "Great Civic Exhibit," constructed in the auditorium basement and foyer, was officially opened to the public. Under the direction of the Reverend Dana Bartlett and Florence Mills—two noted local civic reformers—the exhibit, featuring displays from a cross-representation of

America's cities, was "declared to be the [most] complete exhibit of its kind that has ever been shown in the West, if not in America." ²⁵

In the exhibition, presentations contrasted the devastation of slum living with improvements in playgrounds, parks, municipal art, and the "'social service,' which is becoming an important part of the development of the modern city. . . ." ²⁶ Host city Los Angeles boasted the most extensive display within the exhibition, devoting sections to water and power and to general public utilities, municipal ownership, and progress on the Owens River Aqueduct. Tree planting and landscaping schemes, preventative medicine from the City Health Department, distribution of nursing programs, milk inspection, harbor development, effective traffic control and patrol, street cleaning, slum congestion, child labor, school and home gardens, and other methods of forming the ideal municipality were also displayed. ²⁷ Valuable information to both scholar and informed lay person was contained in the exhibition; it was acclaimed as an integral tool for disseminating information on the leading edge of municipal reform. ²⁸

Some two hundred fifty delegates comprised the opening-night audience. Governor Hiram Johnson presided and William Dudley Foulke, League president since 1910, and a noted attorney, author, and municipal expert rendered the keynote address of "Expert City Management." Foulke's speech was the first of some three dozen presentations over the next several days covering the entire spectrum of current American municipal reform activity. ²⁹

Drawing upon a blue ribbon civil service reform panel's two-year study, Foulke favored the commission form of city government first introduced by the city of Galveston after its devastating hurricane and flood of September 1900, and later refined by the city of Des Moines. In such a system, Foulke explained, executive and legislative functions would be simplified and logically reorganized into several departments, each guided by a capable commissioner who was either elected at large or appointed through a competitive civil service exam. Additional



Left to right, Meyer Lissner, Charles Dwight Willard, Hiram Johnson, and Chester H. Rowell. Dedicated to breaking the Southern Pacific Railroad's tight grip on Sacramento, the four political activists were founders of the Lincoln-Roosevelt Progressive League, organized with the intention of reforming state government. Willard, who was Lissner's close friend, dedicated his energies to municipal reform in Los Angeles; Rowell, editor of the *Fresno Republican*, covered state politics and inspired the founding of the League, which began in 1907 at the grassroots level and by 1910 was a solid statewide organization. Lissner ran the campaign successfully and Johnson was voted into office as governor. *Courtesy Department of Special Collections, Stanford University Libraries.*

components permitted the commissioners to congregate as a legislative council, should the need arise; extended the civil service regulations to selection of all administrative officers; and allowed for "experting" every municipal department.³⁰ Los Angeles was surely no longer the sleepy pueblo of 170; it now supported a sprawling urban industrial complex, therefore requiring "expert service in each particular line of work. . . ."³¹ The experts were not required to be narrow specialists but, generally, could be drawn from the private sector and selected through the merit system of competitive examination, thereby circumventing the autonomous appointive power of a mayor, a city council, or a commission.³² Foulke cautioned that only a few commissioners were advisable for a more effective and less confusing administration of city government.³³ Foulke's address, highlighting one of the convention's themes of efficiency through knowledge, stressed that non-expert political supervisors would inhibit the efficiency of those experts in their hire.³⁴ Qualified persons could best be kept in municipal

service "by making the service attractive, permanent and attainable through meritorious work. . . ."³⁵ Government machinery required reorganization to accommodate reforms. Yet, every successful municipal government needed a solid phalanx of "patriotic citizens who contemplated and insisted upon only the best of all things."³⁶

Prominent authorities followed Foulke's lead by addressing the delegates throughout the convention on a wide variety of municipal topics. Selecting and retaining quality officials, the commission form of government for large cities, and general discussion of Los Angeles's proposed charter were all granted convention priorities.³⁷ An afternoon round table luncheon at the Alexandria Hotel was followed by an hour of motion picture exhibits on relevant subjects at Temple Auditorium. Noted experts presented papers on topics including "Commission Government," "Municipal Home Rule," and "County Home Rule."

Lissner was a keynote speaker at this afternoon session. His paper on "Honesty Plus Efficiency,"³⁸



An afternoon garden party in southern California was organized in support of the 1912 presidential campaign. Lissner's Progressive branch of the Republican Party bolted in 1912 and enlisted former president Theodore Roosevelt as its candidate with Hiram Johnson as his running mate. The party adopted its more familiar and highly evocative name after Roosevelt, having just returned from two years of travel in Africa and Europe, answered a reporter's question about the state of his health. Famously, TR replied, "I feel fit as a bull moose." *Courtesy Department of Special Collections, Stanford University Libraries.*

advocated charter revision leading to commission government. He had equated popular government with efficiently administered government, the most pronounced reform results of which were beginning to surface in America's cities.³⁹

Lissner conceded that the problem was finding the ideal individuals for municipal service. He described the various types of men who were elected to high positions and then changed their stripe once in office; men who were honest in business and dishonest in politics; and men who were so honest that they leaned backward, suddenly developing independent ideas about affairs which made them dan-

gerous as potential radicals deviating from the desired norm.⁴⁰ Experts were therefore the ideal municipal employees. Yet, in a democratic society, experts were not eminently electable and few could probably be persuaded to accept candidacy. Perhaps it was better, he proposed, to appoint permanent experts to administrative positions according to the precedents established in Europe's major municipalities.

He concluded his address with a warning. A propensity was growing in Europe for radical popular change, as the constituencies challenged their various leaders to address pressing social, industrial

economic questions. Germany, France, Italy, Austria, even England, confronted the challenge. The 'voice of the people' [was] raising strange new-old problems with the power to force a hearing . . ."⁴¹

America had yet to confront the power of that popular radicalism, but the signs reflected in American labor and splinter politics were indicative of ominous things to come, the threat of which he had personally experienced in the local 1911 municipal election. Lissner suggested an alternative. Municipal reformers must grow sensitive to, and incorporate, the needs of the people whose communities they served to become more effective.⁴²

Lissner equated "the problem of good community living" as "the true problem of government." Political reformers had yet to address the economic, industrial, and social problems plaguing America's major cities; these problems inhibited the quality of American life. Lissner's position was a significant shift away from his beloved devotion to political reform. Yet his vision was tempered by a fear that leaving these problems unsolved would cause the American people to lose hope and to turn to revolution as their only viable option. He therefore prayed that "the faculty of man in men shall not suffer" and that the American people would never lose hope in bettering the lot of their fellow citizens and their society.⁴³

Woodruff highlighted the afternoon session with a pro-commission government paper on "Simplified Publicity and Efficiency in Municipal Affairs." The commission form of government had been adopted by 256 communities throughout the United States to date, which represented an increase of forty-nine communities since the beginning of the year. St. Paul, New Orleans, and Los Angeles were large municipalities contemplating adoption. Woodruff reiterated Foulke's position that commission government removed municipal authority from elected officials such as mayors, executive administrators, and city councilmen, and redistributed it to several departments, each governed by a commissioner, either elected, or appointed through civil service examination. Each commissioner should be an expert in the area of municipal authority over which he governed, or be assisted by experts also appointed by competitive civil service examination.

Secretary Woodruff stressed that the commission

form would simplify the complex systems of government that had traditionally strengthened professional politicians. Woodruff was convinced that the "double chambered municipal legislature" was an anachronism. The mayor and the city council must be merged and simplified into one body, popularly elected; this would provide any city with competent administration responsive to its voting constituency.⁴⁴

The early afternoon motion picture exhibit was repeated later, followed by the evening speakers. Word of the meeting's activities spread rapidly throughout the region. The previous evening's overflow crowd prompted convention officials to move the proceedings from Temple Auditorium to the larger, adjacent Choral Hall for the remainder of the week.⁴⁵

On July 10, Meyer Lissner addressed the public in the local press. He urged Los Angeles citizens to attend the convention's sessions and to take in the Civic Exhibit, still at Temple Auditorium. He explained that Los Angeles was currently entertaining some of the most eminent municipal and civic experts in the nation; many of them had attained international recognition in their specialties. The convention and exhibit afforded Angelenos a rare opportunity to learn about bettering the quality of life in American cities. "Come and be with us at these meetings," Lissner urged, "... assist in entertaining our guests and secure for yourselves the educational advantages which so freely are offered at this time."⁴⁶

Thousands responded to Lissner's call, taking advantage of the free exhibit, access to the experts at the convention site and hotels, and readily available public transportation. Spilling into the balmy twilight after the evening's addresses, residents and guests mingled on the streets, viewed the exhibit, and exchanged perspectives on urban problems and solutions, and other social matters. League delegates were impressed by public concern and participation.⁴⁷

Lissner presided over the Wednesday morning and afternoon sessions,⁴⁸ highlighted by an impassioned debate between California State Railroad Commission chairman, John M. Eshleman, and former president of the Los Angeles Board of Public Utilities, Lewis R. Works, over their respective advo-

cacies of state and local regulation of public utilities. Eshleman declared for state consolidation of each municipality's regulatory functions. He suggested either total state authority over public utilities regulation or a dual state-municipality jurisdiction. Arguing for the municipalities, Works feared that dual state-municipal authority might present the state as a dispassionate, or even disinterested, second party lacking both resources and personnel to adequately assist the hundreds of California municipalities requiring its services. State regulation might also prove an encumbrance of monumental proportions. Works agreed with Eshleman that regulating commissioners should be adequately compensated for their services.⁴⁹

The National Municipal League's annual banquet was held at the Hotel Alexandria that evening. Meyer Lissner also presided as the banquet's host and President Foulke was its toastmaster. Approximately one hundred fifty guests attended the affair, with a sterling contingent of female delegates, including Miss Jane Addams and Mrs. Charles Farwell (Katherine Philips) Edson, noted national and local reformers, respectively, on the league's executive committee.⁵⁰

Thursday's proceedings encompassed addresses by league executive committee members Professor Albert Bushnell Hart and Edson, a noted Los Angeles educational and urban reform advocate. In Lissner's words, she possessed "energy and great executive ability," and was the first elected female member of the executive committee in the league's eighteen-year history. That day there were also addresses by Dr. John Randolph Haynes and Chester H. Rowell, the acclaimed Progressive Editor of the *Fresno Republican*.⁵¹ The balance of Friday's session was devoted to a critical examination of Los Angeles's proposed—and controversial—new city charter with the Los Angeles Board of Freeholders. As with the rest of the convention, Lissner's input and experience proved invaluable.

Lissner had been involved in local charter reform activities since 1907. By 1908, a charter committee attempted to overhaul the hopelessly anachronistic 1889 city charter and replace it with a modern, harmonious one. The proposed new charter immediately received criticism from many city officials that some of its major recommendations, particularly

election of councilmen-at-large, would disrupt the city's historical ward system of representation. The Los Angeles Municipal League therefore recommended no new charter at this juncture, but improvements to the old one through charter amendments, which were implemented, including election of councilmen-at-large, carrying the city through the next two years when work on a new charter could be undertaken.⁵²

In 1910, Lissner was appointed to a new charter commission. During his tenure, convinced by Woodruff of the advantages of commission government, Lissner backed commission government for future efforts at Los Angeles charter reform,⁵³ and continued to educate himself on city planning and civil service reform.⁵⁴ The debate between charter overhaul and charter amendment surfaced again in 1910. By mid-summer, a majority on the seven-member commission believed it currently impracticable "to submit a new charter based on the commission plan." Meyer Lissner echoed the minority opinion,⁵⁵ but the majority held firm and the city council again called for a charter amendment election.⁵⁶

The commission form of government did not fall upon deaf ears in California, however. Lissner was comforted to learn that the legislature was preparing a draft to inaugurate a "Commission Plan of Government" for the state's smaller cities and incorporated towns affiliated with the League of California Municipalities. All municipalities within the league's affiliation could institute a commission government if a majority of their respective voters so desired.⁵⁷

Anticipating the convening of the 1913 legislature, Lissner again prepared to battle for a new commission-based charter. With examples from dozens of American cities and state legislatures,⁵⁸ Lissner was ready to share his knowledge when the city council authorized investigation into a new city charter, which it did by establishing a fifteen-member charter committee in February.⁵⁹ The committee, working with the National Municipal League, was to prepare a city charter draft using the commission plan of government that might be modified according to local municipal conditions.⁶⁰ After initial organization preliminaries, the committee met weekly to prepare a draft by June 1. Lissner served as a replace



The California delegation to the 1912 Progressive Convention in Chicago poses for a portrait. The California delegation to elect Roosevelt included, in the front row, Meyer Lissner (far left) and Roosevelt's running mate, Hiram W. Johnson (third from left). *Courtesy Department of Special Collections, Stanford University Libraries.*

ment for one of the original committee members who had resigned.

By this time, commission government had been tested and adopted only in cities with fewer than 10,000 people. Some experts considered population size and infrastructure complexities in larger metropolitan areas unadaptable to the commission form. Los Angeles elicited nationwide interest among governmental reformers because it was the first major city proposed as an experiment using the Galveston and Des Moines plans. The committee planned to submit its draft to the National Municipal League, which would use it as prototype for large city commission governments.⁶¹

Lissner realized the work he and fellow charter committee members were doing was pioneering, but they all were committed to drafting a new charter

that would be simple. He was confident they could produce a document under two thousand words, and leave the "details" to an administrative code. He was equally confident the commission form of city government could adequately handle the questions of centralization of power and its responsibilities.⁶²

Bolstered by a full compilation of expert data and analysis that had been provided by numerous officials, and by mayors and commissioners from fifty American commission-governed cities,⁶³ Lissner and his colleagues organized the data around twenty-four points of agreement. These points would serve as the basis of the charter's draft, subject to further refinement by the Board of Freeholders. What emerged was a streamlined, simplified, seven-member, seven-department commis-

sion government for Los Angeles that included provisions for direct democracy and civil service safeguards, and an administrative code.⁶⁴ Initially, Lissner had subscribed to a minority report advocating five departments for administrative purposes.⁶⁵

In accordance with the California constitution, the charter committee presented its accumulated data to the Board of Freeholders. The group, which was the transferred charter committee membership elected as freeholders on Tuesday, May 28, was to further refine the document and accommodate input from the commission's various sub-committees.⁶⁶ The work on the new charter was now officially recognized, as the Board of Freeholders capitalized on the preliminaries completed by the now-defunct charter committee to meet the deadlines prescribed by law to complete the charter.⁶⁷

The freeholders therefore sought the assistance of national authorities to advise them during the league's annual meeting in Los Angeles. The league responded by scheduling an all-day session on the subject for Friday, July 12.⁶⁸ Its experts would honor their pledge to assist the city in developing "the best charter for Los Angeles . . ."⁶⁹ to serve a future population of over one million inhabitants and to administer millions of dollars expended for water, harbor, railway, and other city improvements.⁷⁰

The Board of Freeholders submitted twenty-seven questions to the National Municipal League's experts at the city hall session.⁷¹ The questions assumed that the City of Los Angeles was about to adopt the commission government, modified as local conditions made necessary, and reflected the discussion of the freeholders to date.⁷² Generally, the experts agreed on the following: 1) Los Angeles was pursuing a proper course in adopting the commission form of government; 2) seven commissioners as proposed was a workable scheme, though several persons favored five; 3) commissioner terms of office should be staggered; 4) commissioners should have jurisdictional and appointive authority over bureau heads and all experts, officers, deputies, and other employees in their administrations, yet their subordinates should be selected only from civil service eligibility lists; 5) competitive examinations among individuals classified on the civil service rolls as similarly endowed should be the criterion of selection

as this could be a check against recurrence of "objectionable politics"; and 6) a minority opinion from the victorious administration's opposition should be formally represented in city government. The experts were divided over municipal incorporation of public utilities franchises; on 100 percent assessment of real property for purposes of municipal taxation and "bonded indebtedness"; on employee removal; and on preferential voting versus proportional representation. The freeholders invited each of the participating experts to submit separate opinions on all the questions after the convention.⁷³

The experts urged the freeholders to utilize the full "patriotism and intelligence of its citizens" and "the best expert service in the various branches of municipal business" to attack Los Angeles's major problems.⁷⁴ Above all, they emphasized cultivating a type of municipal expert rarely mentioned during the convention. This model was characterized perhaps in reference to Lissner—as one who understood human nature and the desires of ordinary citizens while possessing the ability to govern and motivate other experts under the commission form.⁷⁵ Many outstanding points of contention were resolved through this process.

Freeholder Lissner shared the outward beliefs and resolutions of his fellow members concerning the proposed charter, but the inward man still harbored reservations. Lissner wanted to simplify municipal government, maximize city employees to their greatest effectiveness, eliminate overlapping responsibilities, jurisdictions, and waste, and consolidate with county government where feasible. He wanted city government to be flexible as well as simple, and therefore continued to favor a five- over seven-member commission.

Work on the charter continued for several months. It was completed and published on Thursday, October 3, 1912, by which time Lissner's position had softened into one of admiration and support. As the "Citizens' Charter Committee," proponents of the new charter closed ranks with the freeholders to support its adoption at a special charter election in December. By Wednesday, November 20, however, fifty Los Angeles businessmen, supported by the reactionary *Los Angeles Times*, created "The Taxpayers Protective League," whose sole purpose was to defeat the charter.



Meyer Lissner (1871-1930). Courtesy Department of Special Collections, Stanford University Libraries.

The Taxpayers Protective League feared that the proposed charter would promote a political machine whose size threatened to dwarf all previous municipal machines. They believed that the freeholders had been divided into two camps from inception: the first camp advocated centralized power, and was controlled by "structuralist" political reformers like Lissner; the second sought greater popularity, representation, and activism, and was controlled by social reformers like Dr. Haynes, and its ideology served as a front for a growing socialism in Los Angeles. Lissner's contingency, they declared, was clearly stronger.

The Taxpayers claimed that the centralizers' plan encouraged the municipality itself to engage in business, ultimately destroying private ownership and endangering operation of all local businesses. The army of civil service appointees would overwhelm the few elected officials, denying the democratic examination of a prospective public officer's background and positions, thereby negating the city's ability to elect qualified, uncorrupted officials. This courted disaster. Moreover, the centralized structure would deliver too much authority into the hands of

four commissioners, a simple majority, who, armed with taxing authority and no three-quarters veto override, would chart the entire city's destiny for years with no accountability whatsoever.

These arguments exerted tremendous effect, and the proposed charter was defeated at the special election on December 3, 1912. It went down by more than two to one, and was the third charter defeat since 1888. An angry Lissner worried that a hastily proposed charter amendment election early in 1913 to adopt the essence of the proposed charter would dilute it, thereby negating all the hard work accomplished by the commissioners/freeholders in the previous ten months.⁷⁶

All these events concerning defeat of the proposed commission-based charter would transpire long after the experts had offered their recommendations. The National Municipal League's leadership considered its annual convention a complete and unadulterated success.⁷⁷ The experts had come to town, honoring the maturation of Los Angeles as a metropolis to watch in the ensuing decades.

For its part, Los Angeles had experienced a rare opportunity to partake of those experts' vast knowledge. By inviting the league to Los Angeles, Meyer Lissner and his co-organizers had established precedents for Pacific coast cities hosting national conventions. By the league's exacting standards, moreover, eastern cities no longer dominated the nation as centers for urban reform; Lissner moved their attention West. His vision for a modern Los Angeles was materializing and because of the convention, that vision was shared by a growing number of adherents. Indeed, Lissner and Los Angeles had accomplished much. KHS

See notes beginning on page 82.

Mark H. Stevens is an adjunct professor of history and humanities at the University of Redlands. He received his Ph.D. in history from the Claremont Graduate School in 1995. This article was developed from his dissertation on Meyer Lissner, a prominent, early twentieth-century Los Angeles Progressive reformer. The author specializes in urban/political American Progressivism and the New Deal, especially in reference to Los Angeles and California.

TRAILBLAZING IN MARIN

Women's Dipsea Hikes, 1918-1922

by Rita M. Liberti

In June 2001, sixty-one-year-old Shirley Matson crossed the finish line first, winning her third Dipsea cross-country foot race in less than a decade.¹ Matson's successes on the Dipsea course are as remarkable as the race itself, which is the second oldest footrace in the United States. The seven-mile event over Mt. Tamalpais from Mill Valley to Stinson Beach in northern California's Marin County embodies a number of unique features, among them, its pioneering place in women's sports history.²

In early twenty-first-century America few are critical of female athletes such as Shirley Matson, and of women's involvement in cross-country running generally. However, over eighty years ago when women first began racing over the Dipsea course this was clearly not the case as local and national discourse surrounding female athleticism—particularly running events—was extensive. Some commentators encouraged sporting participation among women, viewing it as one of many markers of female strength and independence. Others were troubled by female athleticism because they feared at least in part that such activity masculinized women and disrupted the existing gender order. An examination of the women's Dipsea races from 1918 to 1922 points to these tensions amid a range of responses, not only to female athleticism but also to women's place in society.

In April of 1918, just days after the first Dipsea cross-country race for women, promoter George James declared that the event "... was a sight to remember, seeing these young ladies in the flower of youth, with clear eyes, cheeks flushed a picture of

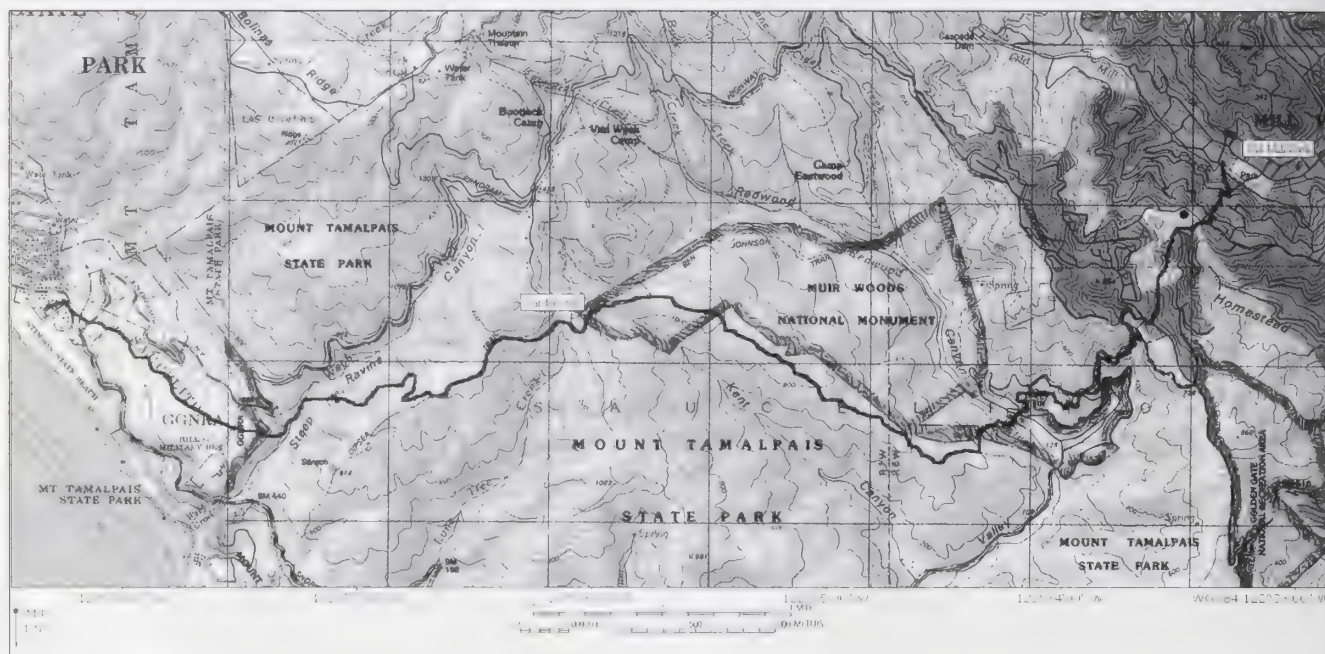
health, coming down the stretch, some strong while others began to wobble but all game to the core — a fitting tribute to a clean life and outdoor athletics." James, who had watched men race over the Dipsea trail since the annual event began in 1905, concluded that the success of the inaugural women's event was evident as 148 of the 171 starters finished the rugged course.⁴ Moreover, according to James, the race and the condition of the finishers indicated clearly that the female athlete "is more game, more tenacious, and has greater power of endurance" than any equally trained man.⁵

Over the next four years James's enthusiasm for the women's Dipsea did not waiver and was matched by community interest and involvement in the event. However, despite the event's popularity it was discontinued five years after its 1918 start. Dipsea historian Mark Reese concludes that the race was halted due to opposition from local clergy and physicians objecting to the "hiking costumes" and "undue stress on women's bodies."⁶ While no primary source material that directly addresses the issues that resulted in the cessation of the women's Dipsea has emerged, there is ample evidence revealing that fashion and health concerns were not far from the minds of race organizers and some people in the community.

In the first two decades of the twentieth century strenuous athletic activities for women were under close scrutiny by individuals and organizations fearing that such events promoted immodesty and were physically disabling to participants.



Setting a trend that continues today, nature-lovers packed the San Francisco ferries intent on enjoying Marin County's redwood groves, grass meadows, precarious outcroppings, and long beaches. The 1937 completion of the Golden Gate Bridge allowed increased access to popular outdoor spots. Now 1.3 million visitors each year explore the Mt. Tamalpais State Park on foot and bike, using more than fifty miles of trail that connect to a two-hundred-mile trail system throughout the county. *California Historical Society, FN-25032.*



The official Dipsea website (www.dipsea.org) tells of a group of now-legendary San Franciscans who raced the seven-mile trail informally, but with a wager on the line, from the depot in Mill Valley to the Dipsea Inn. The race was such a thrill that those 1904 runners organized an "official" race the next year, in which 100 men participated. The 92nd Dipsea was run in June of 2002 by about half the number of racers who applied. For safety and conservation concerns, entrants are limited to 1,500 men and women. For the particularly physically fit seeking an extreme running challenge, there is the Double Dipsea and even the Quadruple Dipsea, at which a runner in 1992 set the amazing record of 3:52:29. *Courtesy www.durt.org*

In the years surrounding the first running of the women's Dipsea, national athletic and physical education leaders made their position clear regarding female involvement in rigorous athletic pursuits. In 1914, for example, the American Olympic Committee stated its opposition to female involvement in any event in which participants "could not wear long skirts."⁷ In addition to problems concerning modesty and propriety, some people worried that athleticism would jeopardize women's unique physical nature. Such was the case for prominent physical educator Dudley Sargent, who in 1912 encouraged girls' and women's physical activities, but cautioned that these events be modified to "[consider] the peculiar constitution of her nervous system and the great emotional disturbances to which she is subject . . ." In Sargent's view running events should be modified and regulated to meet a woman's "limitations."⁸ To

critics, the Dipsea and others races of its ilk were antithetical to appropriate standards of female conduct and behavior. Moreover, participants' emotional and physical well-being were at risk.

Female track events sparked especially strong criticism across the nation, resulting in very few opportunities nationwide for women to engage in running events. National physical education organizations as well as the Amateur Athletic Union lined up to voice their disapproval of women's involvement in competitive track activity. International perceptions of female participation in track events were reflected in the event offerings at the Olympic Games as well. Although the modern Olympic Games began in 1896, women's track and field events were not included in the program until 1928.⁹ Not until 1984 did the marathon, at 26.2 miles, become a medal event for women. It is telling that only in the past



Women runners mid-race round a curve while male onlookers keep warm and comfortable on the sidelines at the 1921 Dipsea race. Public acceptance and participation in the women's Dipsea was remarkable considering that such internationally acclaimed events as the Boston Marathon officially kept women out until Nina Kuscsik ran in 1972. Californians, however, were much less ambivalent about women's involvement in athletic activities. Race participants symbolized all that was the "modern woman" and her "independence, [and] willful, adventurous spirit." In 1919 Dipsea observer Alma Reed noted that the race demanded "strength, agility, and fearlessness, . . . the coveted goal of the California girls of today." *Courtesy Mill Valley Public Library.*

two decades has the most prestigious international sports competition lowered the barriers to women. The requisite skills needed to excel in track—including speed, strength, and power—were too closely aligned with pure masculinity, and perhaps too closely bound to the historic Olympic ideal of pure competition, to admit a parallel female event.¹⁰

On a more local level, George James and other supporters of women's competition over the Dipsea trail were much less ambivalent about women's involvement in strenuous athletic activity. For Dipsea supporters the race participants symbolized all that was the "modern woman"—independent, athletic, dar-

ing, and eager to exhibit a level of bravado unthinkable a generation earlier. The common image of the flapper epitomized this new conceptualization of womanhood, departing from Victorian ideals of femininity grounded in passivity and refinement, and defying convention. Elements embodying the flapper were also apparent in the female athlete. According to women's sports historian Susan Cahn, "the athlete resembled the flapper in her boyish athleticism, independence, [and] willful, adventurous spirit."¹¹ The link between athleticism and a new construction of femininity is articulated by Dipsea observer Alma Reed, who noted that the race

demanded "strength, agility, and fearlessness," all of which "were becoming . . . the coveted goal of the California girls of today."¹²

While Dipsea enthusiasts thought these qualities in young women admirable, others within the community viewed these changes as a clear and unwelcome challenge to the existing gender order in post-World War I America. Gender tension was especially acute as women attempted to rearrange the parameters of appropriate female conduct through dress and behavior, blurring the once mutually exclusive categories of what it meant to be masculine and feminine.¹³ Hundreds of women Dipsea runners in the late teens and early twenties challenged convention by forcing community perceptions of female athleticism and gender relations to the surface through one of the most popular local outdoor activities: hiking.

The San Francisco Bay Area's incontrovertible preoccupation with hiking in the late nineteenth and early twentieth centuries contributed to the popularity of the Dipsea race among participants and spectators alike. The Dipsea trail and hundreds of similar paths were, and still are extremely popular destinations for San Franciscans. Community enthusiasm was reflected in the formation of a number of hiking clubs at the turn of the century.¹⁴ For others, including locals living in and around Mill Valley, hiking was less a leisure activity than a necessity given the hilly terrain and sparse amenities in the immediate area. Long-time Mill Valley resident Shayer Robinson makes clear the situation: "we didn't hike because we liked to walk but because we had to hike if we wanted to go somewhere."¹⁵ Whether used for utilitarian reasons by locals or as the destination of thousands of Bay Area residents for weekend excursions to the beauty of the

Fifty Years of Milestones in Women's Sports

1876 In the first U.S. women's **boxing match**, Nell Saunders defeats Rose Harland at the Hills Theater in New York. Saunders receives a silver butter dish as a prize.

1890-1900 Widespread athletic participation among American women is promoted by the invention of the "safety bicycle" so that some 30,000 women own and ride bicycles by 1900. Critics allege that **bicycle riding** can have deleterious effects on women, such as spinal shock and hardened abdominal muscles.

1895 Vassar College hosts the first all-female **track** meet. All 300 spectators are women. No men are allowed to attend the event — except the male referees.

1896 University of California Berkeley and Stanford University compete in the first women's intercollegiate **basketball** game. Even in California, male spectators are barred.

1898 At the age of twenty, pitcher Lizzie Arlington becomes the first woman to sign a contract with a minor league **baseball** team.

1900 Nineteen women join 1,206 men participating in the **Olympics** in Paris, but only in **tennis and golf** events. Fast forward to the 2000 Olympics in Sydney: 38 percent of the athletes are women who compete in 44 per cent of the events.

1901 **Field hockey** is introduced to the United States by Con-

stance Applebee at a physical education seminar at Harvard attended by women from fifteen states. Popularity of the English import spreads quickly among American women.

1907 Margaret Curtis defeats her sister Harriet at the U.S. Women's National Amateur **golf** championships.

1911 Fifty-eight-year-old Annie Smith Peck, an instructor at Purdue University and Smith College, **climbs** the 21,834-foot north summit of glacier-topped Coropuna in Peru.

1914 Theresa Weld wins the first of six victories as U.S. singles **figure skating** champion, even though some judges lowered her marks because they believed her athletic jumps were inappropriate for women.

1924 Chicagoan Sybil Bauer, at twenty-two, competes in the Olympics as the unofficial holder of the women's and men's record in **backstroke**, and Gertrude Ederle takes home a bronze medal in the 100-meter **freestyle**.

1926 As the first woman to swim the English Channel, Gertrude Ederle beats the men's record by almost two hours.

1927 Nicknamed "Little Miss Poker Face" for her steady and serious game, American **tennis** star Helen Wills Moody from Centerville, California, wins the first of eight women's singles championships at Wimbledon.

Wild Doggerel Plunges from Poetic Heights

"Go get your walking togs in trim, put everything together.
For off we start for Willow Camp, regardless of the weather.
It's only practice, 'course, my dear, but tell your friend or sister
That if there's any one not in we will be glad to list her.

Of course, it's over seven miles, and if you're not a hiker
You'd better quietly renege – you'll not be termed a piker.
I'd like to be among those there, but when there's climbing
I'll let the rest attend to that while I just do the rhyming."

*Chubby McAuliffe, "Chubby's Chaff." San Francisco Call,
March 18, 1918, p. 12.*

Pacific Ocean and Mt. Tamalpais, the trails were extremely popular.

Considering that the Golden Gate Bridge was not complete until 1937, getting across the bay to Marin was a journey unto itself. Up to sixty ferries per day carried passengers from San Francisco to Sausalito where hikers boarded trains to take them to the trailheads at the foot of Mt. Tamalpais. Each weekend Marin County residents and Mill Valley folks in particular were inundated with "pleasure seeking travelers" from the city.¹⁶ Residents acknowledged that most of the hikers were tolerable, but a few were far from it, committing "immoral" acts on the trails, disrupting the locals' lives and sensibilities. At a town meeting in 1919, Mrs. Arthur Brand reported that she "witnessed from the windows of her own residence sights as no decent woman is supposed ever to see."¹⁷ While some Marin residents were engaged in exposing and curbing perceived lawlessness among hikers, others were amused by the visitors. Virginia Glahn Cameron remembers watching as a child, but

Urbanites squeezed into a free-coasting gravity train to admire the views and feel the thrill of descent from the heights of Mt. Tamalpais. Active from 1896 to 1930, in its heyday, the gravity train conveyed more than 700 visitors daily. Riders boarded at Tamalpais Tavern on the eastern summit and whizzed down the "crookedest railroad in the world," making 281 turns before rolling to a stop in Mill Valley or at the Muir Woods depot. A brakeman, fondly called the "gravity man," was always on board. Steam-powered engines towed the open cars back up the eight-mile track to be ready for the next adventurers. *California Historical Society, FN-24325.*





The evolution of women's athletic-wear, specifically of swimwear, stretches the contours of controversy. Since serious swimming requires a certain degree of undress (still an eyebrow-raiser among many), women swimmers of bygone days were at an unfair advantage. They battled public disapproval and legal consequence if they risked going into the water in any bathing outfit other than the standard: a complicated and heavy-when-wet wool assemblage of bloomers, shirt, skirt, stockings, and cap. In 1919 Eltheldra Bleibtrey, the first U.S. female Olympic swimming champion, was arrested at Manhattan Beach for wading in the ocean with bare legs. Ironically, the traditionally accepted outfit often clung seductively to the swimmer's body revealing more of the forbidden fruit to the public eye than later, reasonable bathing suits. Pictured here, Willow Camp, Stinson Beach; *California Historical Society*, FN-32736 and FN-32737.

not saying a word, as hikers boarded the trains to take them back to the ferry at the end of the day. "[O]ver half of them [hikers] were carrying these big bouquets of what they thought was a beautiful red plant. Well, it was poison oak. We were so stinking as kids."¹⁸

Similarly, the hiking apparel worn by some of the "city slickers"¹⁹ served as entertainment for other Mill Valley residents. Margaret Wosser remembers that the outfits worn by hikers were "really ridiculous" as fashion superseded comfort and utility. She recalls the girls "in high heels with the spiral leggings [puttees] that the soldiers used in World War I wound around their legs. When they'd straggle in at the end of the day, sometimes the leggings would have come

unwound and would be dragging behind."²⁰ While the tone of Margaret Wosser's observations concerning hiking garb for women sounds more bemused than critical, her comments reflect a more general societal preoccupation with women's fashion, both on and off hiking trails.

Women's clothing styles, especially those associated with the flapper in the late teens and early twenties, signaled a radical departure from the past, as less restrictive styles made their way into the American mainstream. This meant the popularization of shorter skirts, athletic outfits, and one-piece bathing suits.²¹ For conservative onlookers these trends were scandalous as they symbolized all that was wrong with society. As women's hemlines rose, tradition-

lists quipped that the nation's moral standards fell.²² Debate on the topic of dress reform and the larger issue of "flapperism" among Bay Area residents was contentious, with citizens voicing their opinions often and with forceful clarity.²³ Critics editorialized that the flapper and her fashion sense were, among other things, "disgust[ing], evil, freak[ish], moral-less, and libidinous."²⁴

On the pages of local newspapers, flappers and their supporters unapologetically fought back against such attacks, leveling charges that respondents were old-fashioned, narrow-minded, and suffering from "mid-Victorian fever."²⁵ One supporter of shorter skirts offered up a utilitarian and humanitarian—though culturally insensitive—solution estimating that the "[combined] saving of cloth due to short skirts in America would be enough to give all the naked savage ladies in Africa a kimona [sic] and all the men a pair of trousers."²⁶

The intensity of the debate concerning women's clothing on the trail was obvious as well. The community focused on Dipsea racers' apparel and that of hikers in general. After a perfect Sunday-afternoon hike in the Bay Area hills, one resident complained in a letter to the editor of the *San Francisco Bulletin* that his day was marred by "women . . . making . . . immodest display[s] of themselves" by wearing trousers on the trails rather than skirts.²⁷ The letter drew a quick response from a number of readers, including Gordon McWhirter, who countered that skirts are even immodest "whenever there is a fence to be climbed."²⁸

Clearly, there was a similar fascination with women's clothing insofar as the Dipsea was concerned. Following the first race in 1918 press reports noted the participants' "hiking costumes were many and varied; some of them were plainly made to order for the occasion and others were voguish and neat."²⁹ Days prior to the start of the 1920 race, director James made it clear that there were no dress regulations in place. One suggestion, however, was that hikers avoid high heeled shoes, as low heels were "far more serviceable on the trail."³⁰ Nearly two-hundred and fifty women toed the mark (most likely in a variety of heels) for the third Dipsea event in 1920. The

Two Hundred Points of Light

Shayer Robinson lived in Mill Valley from 1906 to 1924, and remembered night hikes lit by kinder, gentler flashlights.

"In those days there were no streetlights. People had what they called a 'bug'. This was a tin can with a hole punched in the side of it, a little handle on it, and a candle inside. Often you'd see hikers who came over from San Francisco, hiking over to the beach or up the mountain with their bugs. At night you could see a hundred or maybe two hundred bugs, one after the other, like a big glowworm crawling over the hillside."

Shayer Oswin Lancelot Robinson, interviewed October 1979, Mill Valley, Calif., Oral History Project of Mill Valley, Mill Valley Public Library, Box "P-S," p. 7.

outfits were the center of attention, in this the largest of all five contests.³¹ Frank P. Noon, a reporter for the *San Francisco Call*, was impressed by the colorful hiking apparel and the attractiveness of participants, suggesting that the starting line "looked as if some Broadway musical show had suddenly disbanded and left its beauty chorus stranded."³²

Noon's comments reflect modernist turns toward a more flexible view of female sexuality. This process merged with women's increasing leisure pursuits to create an exciting stage for activities such as hiking.³³ *San Francisco Chronicle* columnist Helen Dare, writing in 1919, could barely contain her enthusiasm for the upcoming hiking season and all that it brought with it, particularly an opportunity for expressions of playful sexuality. Especially interesting to Dare were the breeches that women wore: "not the ordinary, uninteresting breeches . . . but the piquant, fascinating, tantalizing, take-another-look-at-me-over-your-shoulder feminine breeches worn with a challenging matter-of-factness by the girls on the trail."³⁴

Similarly, the press and Dipsea promoters framed the race as a blend of competent athleticism and youthful sexuality merging to form "the most novel event ever staged in the history of athletics."³⁵ In part, the novelty rested on constructing an image of the race that built upon male and female sexual desire. In 1918, the *Call*, which sponsored the race through 1920, published a poem written by Edgar Pomeroy about the upcoming Dipsea. Pomeroy's piece entitled "Girls! Girls! Girls!" read in part,

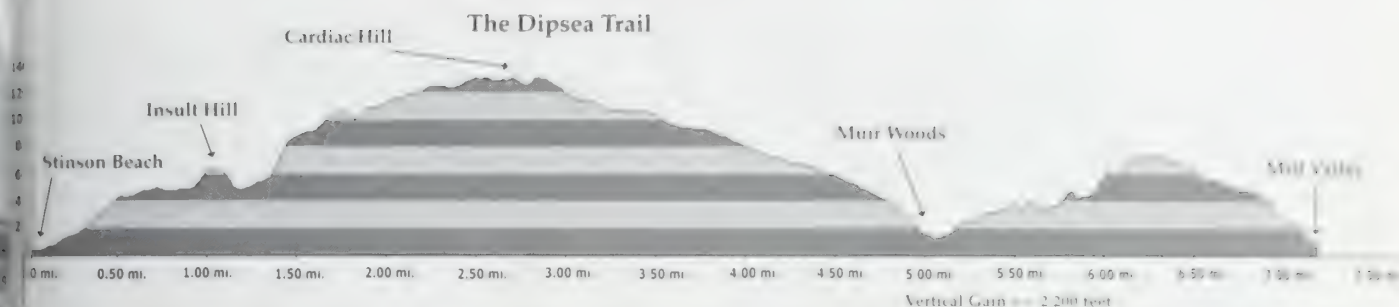


As Dipsea runners assembled at the starting line for the 1920 race, two young women on the far right appear to be absorbed in the folding of a kerchief. While their running "uniforms" may look hopelessly antiquated and quite bizarre in a modern Nike-world of weather-resilient parkas and cushioned, custom-made trail running shoes, dog joggers, and all-terrain running strollers, the Dipsea women in their wool bloomers and low-heeled shoes were leading the sport fashion pack for their time. Female Wimbledon players in 1919 were still wearing corsets, which often resulted in bloody injuries by the end of a match. *Courtesy Mill Valley Public Library.*

Come all you fellows, hit the trail on April
twenty-first;
The things you'll see may make you pale,
Girls make the grade or bust.
'Twill be the greatest country hike that ever
woman took
Since she in bloomers rode a bike, and female
togs forsook.
There'll be many pretty ladies, and many pretty
shapes
Trampling down the daisies and tripping over
drapes.³⁶

Using the race as an opportunity to ogle those involved was not solely the province of men. Race organizers assured women that there would be

ample occasions for social exchanges with men as well. Weeks prior to the 1921 race the *San Francisco Bulletin* announced that Olympic Club football players were recruited to provide crowd control so that after the race the hikers could eat lunch in peace. "Won't that be grand! Husky football players in uniform shoving back the guys so they won't bother the girls!"³⁷ Days later the paper declared that "[w]hen the girls arrive at Mill Valley for the start of the hike they will be assembled in military formation for a parade with a battalion of United States Marines. Won't that be scrumptious!"³⁸ While some welcomed this bold flirtatiousness, others found such forward behavior unwholesome and revolting, especially when expressed by women.



Strictly for the stout-of-heart and strong-of-limb, the Dipsea trail, as described in graphic glory on the official Dipsea website, includes multiple uphill pursuits for a total vertical gain of 2,200 feet and inevitable, but still dramatic, downhill drops. There is a sprint up 676 steps equivalent to a fifty-story building, short cuts for the well-informed, secret slide trails for the risk-takers, a tricky maze of rocks and roots, and for one and all, a daunting ascent of the fittingly named "Insult Hill." Jack Kirk, "the Dipsea Demon," who has run every race since 1930 and has been inducted into the Dipsea Hall of Fame, spoke to longevity and loyalty: "Old runners never die. They just reach the 672nd step." Courtesy www.dipsea.org.

During the late teens and early twenties, societal fears of blossoming female eroticism turned the tables on Victorian images of men's aggressive sexual advances toward unsuspecting and unprotected young women.³⁹ To some observers women, particularly flappers, became the aggressors, leaving men to "organize into defensive groups" lest their "masculine innocence" be corrupted by the "predatory clutches" of uncontrollable young women.⁴⁰ A 1922 article reported that hundreds of young men joined the missionary field rather than live with a "free-talking, free-thinking, free-drinking type of [girl]". The motto of these young men was said to be: "Better a hungry heathen with a club than a thirsty flapper with a lip stick."⁴¹

The full extent to which such wider cultural misgivings associated with women's sexuality and fashion actually had an impact on Dipsea promoters is uncertain. Clearly however, race organizers were not immune to events of the day and surrounding controversies. In 1918 for example, Mrs. Claire Shortall wrote a series of articles in the *Call* aimed at providing helpful hints to participants. In one piece she reminded entrants that the object of the race was to promote a love for healthful sport. To that end participants were not to "appear at the start 'dolled up' as if for the ballroom."⁴² One other

piece of evidence suggests that criticisms concerning women's fashion and sexual expression were not completely dismissed by race officials. Weeks prior to the final race it was announced that there was at least one "innovation" to take place at the 1922 hike. According to the *Bulletin* "[w]omen will have a bigger part in the management of the race than ever before. There will be, for instance, a committee to see that there is nothing objectionable in the costumes that contestants wear."⁴³

Dipsea organizers were concerned about matters beyond immodesty and impropriety of dress. In society overall, an undercurrent of unease about women's fragile nature persisted after World War I and was also apparent in Dipsea discourse. Nowhere is this more unambiguous than in the naming of the race itself. In an effort to elude potential public criticism, event organizers routinely avoided the word "race," using instead the seemingly innocent descriptor "hike."⁴⁴ In addition, the rigorous seven-mile course, with its rugged terrain and drastic elevation changes, prompted officials to require all participants to submit to a heart examination before the race. Advisors warned against overexertion, equating it with "reckless" behavior.⁴⁵ Edward Sparks informed prospective participants that "your mother and your physician . . . are the ones who best under-

The Greatest Event of Its Kind

Mayor Roy Ward of Mill Valley was on the right track but at the wrong time; he spoke on the eve of the last women's Dipsea race to be run:

"I am very glad to be of any help in making the annual hike the wonderful success that I feel certain it will be. This is the greatest event of its kind ever staged for girls and should be encouraged in every way."

Roy Ward, quoted in George T. Davis, "Mill Valley Mayor Will Start Race," *San Francisco Bulletin*, May 25, 1922, p. 29.

stand your physical condition," and advised consultation with them in advance of entering the race. In a cautionary tone, he added, "[d]o not try to fool with nature, as, later in life, you will have to pay. Nature never forgets!"⁴⁶

Those who endorsed the notion of female fragility and modesty must have been unnerved to see the sports page headline after the 1919 race that read: "Dolly Harcus Says Gladys Hofvenahl Bumped Her Off Path on Dipsea Trail." According to Harcus, just two blocks from the finish, Hofvenahl "shoved her aside so roughly that she (Hofvenahl) lost one of the heels off her shoes." Harcus wanted to publicly announce this incident because it was an injustice, and also to clear up the insinuation that "she was so slow that [Hofvenahl] might have been justified in running her over."⁴⁷ Apart from sidestepping fellow participants, the rigors of the trail itself presented challenges for some. In a letter to George James printed in the *Call* following the same 1919 contest, Anna Hart informed readers that "faintheart[ness]" did not prevent her from finishing the race, rather it was the "wild plunge" she took on one of the course's steep hills. After she "stopped skidding" spectators marveled that she was not more seriously hurt.⁴⁸ Reports such as these about the race and its participants might well have added to the debate that swirled around the parameters of appropriate female behavior and activity.

Most of the entrants, including Emma Reiman, managed to avoid the perils along the course. Reiman's exploits on the Dipsea trail are remarkable. She entered the race every year following the inau-

gural run in 1918. In her four appearances she won the contest twice and finished second twice.⁴⁹ Enthralled with Reiman's performance after her 1921 victory, the press reassured readers of her physical condition at the race's end. "She ran across the line in beautiful form – athletic form . . . and had every appearance of having just stepped out of a bandbox. There was not the slightest bit of exhaustion."⁵⁰ In 1922 after winning her second straight Dipsea race and setting a new course record for women of one-hour, twelve minutes and six seconds (a record that would not be eclipsed for more than half a century), Emma Reiman told reporters that she sincerely hoped that the hike would be "continued for many years to come."⁵¹ Unfortunately the 1922 event marked the end of the women's "hikes" over the trail. The next woman to run over the Dipsea in an organized event was Nancy Dreyer in 1950 who ran in the "regular" [*sic*] Dipsea. However, women were not included as official race participants until 1971.⁵²

Even though its tenure was brief, the women's Dipsea is a fascinating exception to the general rule that precluded female participation in distance foot racing and rigorous athletic activity in early twentieth-century America. Gender historian Susan Cahn notes that a "new type of athletic girl" emerged during the first two decades of the twentieth century as Victorian concepts of womanhood grounded in frailty and submissiveness yielded to modernization.⁵³ However, this process was far from linear. The myriad voices addressing women's place in the Dipsea represent a single but eloquent point of contestation about identity and change. Dialogue and opinion surrounding these issues illuminate the ways a community positioned an athletic event within the broader setting and the larger tensions of the times involving female physicality and gender relations. CHS

See notes beginning on page 84.

Dr. Rita Liberti is a sport historian and assistant professor in the Department of Kinesiology and Physical Education at California State University, Hayward. Her primary area of interest is twentieth-century women's sport history. Recent publications appear in the Journal of Sport History and Womanist Theory and Research.



Three-time Dipsea champion and acclaimed runner Emma Reiman flashes a winning smile. Trail running today—usually referring to off-pavement, mountainous routes—continues to be a challenging and popular sport pursued by some of the toughest athletes. The American Discovery Trail, one of the grandest in all the world, is actually a series of trails stretching from coast to coast, through fourteen national parks, sixteen national forests, and thousands of culturally and historically significant spots. *Courtesy Mill Valley Public Library.*



*Nisei Week beauty contestants in 1965 read about the Watts riots.
Photo courtesy of Toyo Miyatake Studios.*

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*Asian Americans and Politics:
Perspectives, Experiences, Prospects.*

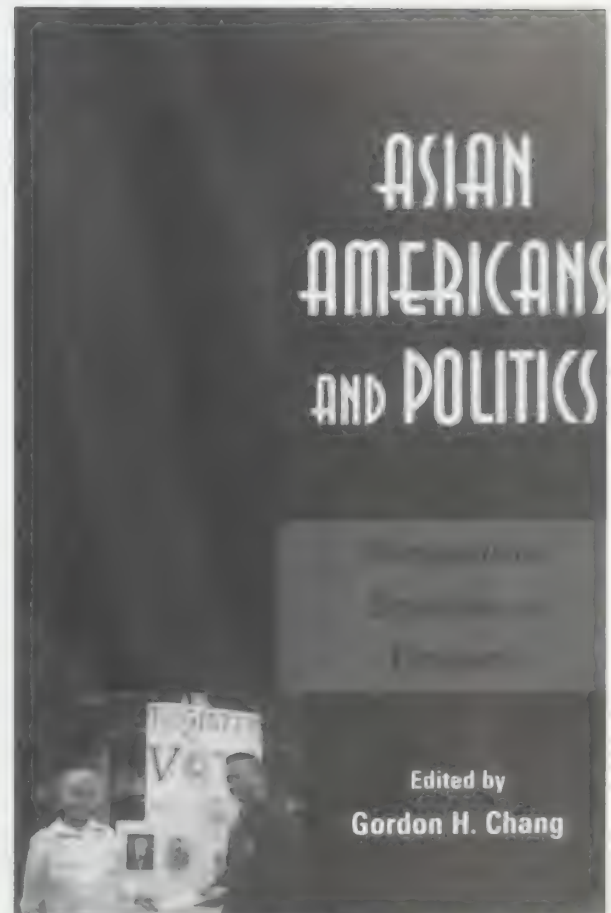
edited by Gordon H. Chang. (Washington, D.C., and Stanford, Calif.: Woodrow Wilson Center Press and Stanford University Press, 2001, xiv, 425 pp., \$60.00 cloth.)

Reviewed by Him Mark Lai, adjunct professor of Asian American studies at San Francisco State University and member of the board of directors, Chinese Historical Society of America.

The bulk of the essays in this collection emerged from a conference on Asian Americans and Politics sponsored by the Woodrow Wilson International Center for Scholars, held in Washington, D.C., in spring 1998. The gathering was perhaps the first devoted to a broad scholarly discussion about the emergence of Asian Americans as a significant factor in American politics. The essays, each by a different scholar, were categorized into one of four parts. "Part 1. Framing the Discussion," with four essays, adopted an expanded approach to politics in discussing the historical factors that went into the evolution of Asian American politics. "Part 2. Voting Behavior," included three essays examining Asian American attitudes as well as the effects of immigration and gender differences. The four essays in "Part 3. Emerging Political Identities" dwell on political conduct as influenced by a variety of factors, namely Asian Americans' legal status in this country, attitudes of youth, case studies on the politics of Indians in America, and Koreans in Los Angeles. In "Part 4. Toward the Future," four essays separately discuss and analyze recent events involving Asian Americans. From different angles, two writers examine fund-raising controversies and issues of foreign influence in Asian American politics, while the remaining essays analyze the successful campaign of Gary Locke for governor of Washington, and redistricting efforts in New York Chinatown.

The bulk of the essays were by writers of Chinese, Japanese, or Korean descent who were well assimilated into American society. This raises the question of whether viewpoints and issues of other Asian American groups were adequately taken into consideration. Also, some comparisons with the political scene in Hawaii, where Asian Americans form a majority, could have added to our understanding of the Asian American empowerment process.

Overall the collection presents valuable insights into the growing political maturity of Asian American communities. The essays reflect basically the viewpoints of Asian American political activists who emerged and matured during the last quarter of the twentieth century and visualized an Asian American minority working together to become a major political force



Courtesy of Stanford University Press.

based on common ethnic experience. However, the three essays analyzing communities with immigrant majorities indicated that such an end result is by no means a foregone conclusion, at least for the immediate future, as changing demographics may well result in political agendas in these communities that are significantly different from those advocated by the activists. Thus, factors other than ethnicity, such as social class, culture, and religious differences may exert an even greater influence on the dynamics of the Asian American political process. They certainly merit greater consideration.

Books sent to *California History* for review that are not reviewed, but pertain to the collection, are catalogued in the California Historical Society library.

Water and the Shaping of California.

By Sue McClurg. (Sacramento: Water Education Foundation and Heyday Books, 2000, 168 pp., \$90.00 cloth, \$35.00 paper.)

Reviewed by George Basye, water attorney, Sacramento, and past president of the California Historical Society and the California Historical Foundation.

Sue McClurg's book is both visually and historically rewarding. *Water and the Shaping of California* is co-published by the Water Education Foundation, a Sacramento-based organization that has made a significant and highly beneficial impact on the understanding of water issues in California. The foundation has been very successful in balancing and explaining, as impartially as possible, the various divergent views of those concerned about California water uses—domestic, agricultural, and environmental, for power and for flood control.

The author is the foundation's principal writer and with this book has added to her own and the foundation's credit by enhancing public appreciation of the very complex field of water development and use in our state. A foreword by State Librarian Dr. Kevin Starr stresses the importance of understanding water's "primal and civilizing power." This book adds greatly to that understanding.

It is well-written and the photography and illustrations are outstanding. It presents both a written and visual account of water development and use, beginning with the Indians and the missions and ending with the most recent developments and controversies. McClurg recounts early water uses by miners and the broader expansion by local, state, and federal projects for water conservation and distribution, flood control and power. It describes flood fights in the wetter years and droughts during years of shortage. The book is printed in wide format, which provides a more effective way of presenting the very attractive illustrations.

California has no real "average" water year. We have years of surplus that produce damaging floods and years of limited supplies that can produce prolonged droughts. The author explains the ways in which Californians, from the mission fathers onward,

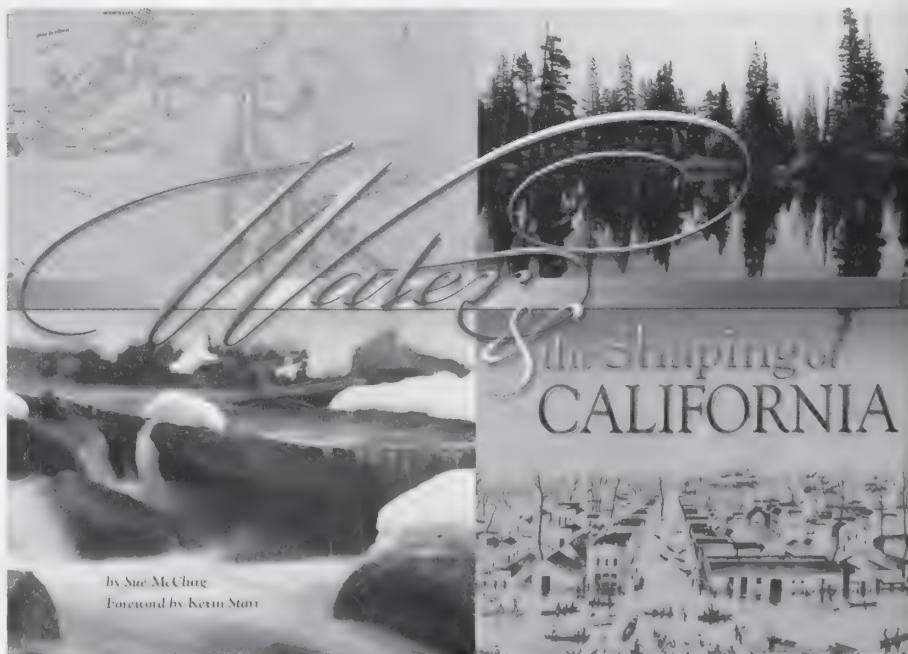
have wrestled with the problems of high and low flows in an attempt to manage both floods and droughts.

Finally, this book puts into context, without editorial comment, the difficult issues that have arisen in more recent years as to how environmental concerns are to be addressed. One version of Mark Twain's famous quotation about water is "Out West, God provided plenty of whiskey to drink, and just enough water to fight over." This book explains how Californians, since the gold-rush days, have attempted to resolve those tensions.

Water and the Shaping of California includes not only wonderful illustrations and photographs, but also a great many helpful and interesting sidebars with pertinent quotations from a myriad of sources. These range from Herbert Hoover's statement that "every drop of water that runs to the sea without rendering a commercial return is a public waste," to John Muir's "Dam Hetch Hetchy? As well dam for water tanks the people's cathedrals and churches, for no holier temple has ever been consecrated by the heart of man." These quotations add greatly to the flavor of the text.

It would be hard to find a more succinct, accurate, and visually attractive explanation of California's water history and conflicts. It is highly recommended as a library addition, for the home and for the school. With its very attractive illustrations and wide format, this book would even grace a coffee table. Your guests would be enthralled.

CHS



Courtesy of Heyday Books

Fritz B. Burns and the Development of Los Angeles.

by James Thomas Keane. (Los Angeles: The Leavey Center for the Study of Los Angeles, Loyola Marymount University, and The Historical Society of Southern California, 2001, 287 pp., \$25.00 cloth.)

Reviewed by Andrew Rolle, Research Scholar, The Huntington Library, and author of *Los Angeles: From Pueblo to City of the Future and California: A History*.

Los Angeles is probably the most misunderstood metropolis in the United States. Writers have repeatedly found it tempting to heap scorn upon the city. They usually ignore those real-estate developers who created the nation's second largest urban complex. A millionaire by age twenty-seven, Fritz Burns was one of these.

When such developers arrived in the 1920s, the days when L.A. was but a sleepy provincial town were already gone. Instead, they encountered a grid of independent communities that spilled over onto one another. It was not easy to organize the resulting urban chaos that film comedian W.C. Fields labeled "Double Dubuque."

In 1921, when Burns arrived in L.A. from Minnesota, the city had already become the nation's most promising urban center. A traveling real-estate salesman, he was fascinated by its seemingly boundless growth. In less than a decade he would become a millionaire. He subsequently faced bankruptcy in the 1930s, yet recovered his fortune, although, for a time he was reduced to sleeping in a beachside tent.

During the next six decades, Burns played a decisive role as a self-described "merchandiser of property." By revolutionizing mass-produced home construction, he pioneered assembly-line building techniques. Equally adept at marketing, he built more than twelve thousand homes throughout California. With Conrad Hilton and Henry Kaiser, he also constructed hotels and apartment houses as far away as Hawaii. Indeed, Burns became known as "the king of low-cost housing." He and Kaiser were major developers of the area surrounding today's Los Angeles International Airport.

After buying movie producer D.W. Griffith's three-hundred-acre ranch, Burns raised several hundred reindeer there and adapted them as his sales logo. Each Christmas, his staff placed cardboard replicas of reindeer prancing in the wind atop his shopping centers.

Other entrepreneurs also prospered from the sale of land and housing construction. These included Mark Taper, a Polish immigrant who planned the Lakewood suburb and who later entered the savings and loan business. Taper, Kaiser, and Burns also became generous philanthropists.

James Keane, the author of this biography, is a freelance writer and also research fellow at Loyola Marymount University. Fritz Burns donated the land on which the institution was built. The Burns Foundation has continued to play a role in the development of Loyola. Keane has produced a well written and carefully researched book.

American Character: The Curious Life of Charles Fletcher Lummis and the Rediscovery of the Southwest.

By Mark Thompson. (New York: Arcade Publishing, 2001, 372 pp., \$27.95 cloth.)

Reviewed by Doyce B. Nunis, Jr., distinguished emeritus professor of history, University of Southern California, and for the past forty years editor of the *Southern California Quarterly*.

Charles Fletcher Lummis (1859-1928) was a man of extraordinary talents. He was an activist, anthropologist, archaeologist, author, editor, journalist, librarian, musicologist, photojournalist (one of the first), preservationist, publisher, reporter, war correspondent, and above all a champion for Southwest Native American rights. Indeed, on his death, the *New York Times* hailed him as the "Apostle of the Southwest" and declared that Lummis "was one of the first [modern] 'discoverers' of the Southwest." There is no question: Lummis throughout his mature years was an unstinting propagandist (in the true sense of the word) of the beauties and wonders, the peoples and culture, that had fashioned New Mexico, Arizona, and California. His deep love for the region was nourished by his residence in New Mexico and southern California, and by numerous forays as a visitor to "The Land of Poco Tiempo," the title of perhaps his best book, published in 1893.

How this Yankee-born man—raised in his youth by his minister father and relatives, an indifferent student at Harvard (failing to graduate, but getting to know a fellow student, Theodore Roosevelt)—vaulted to national attention at the age of twenty-five is truly amazing. And it was done with great dramatic flair: he walked from Cincinnati, Ohio, to Los Angeles, a journey of 3,507 miles, in the fall and winter of 1884-85. His account of that epic trip was recorded in a series of letters sent to the *Chullicoth Leader* and a few to the *Los Angeles Times*, all of which were later republished in that paper. That experience is fully recorded in *A Tramp Across the Continent* (1892), a misleading title for sure, but it does project one of Lummis's personal failings—he was given to exaggeration.



Courtesy of Arcade Publishing.

This biography emphasizes the principal elements that shaped Lummis's life: whatever attracted his attention, he gave fully of himself; physical challenges were welcomed; work was all important—he was truly a workaholic; sixteen- to eighteen-hour days were typical.

His pioneer efforts calling attention to the American Southwest, its culture and its people, especially the Native Americans, thrust him into the national arena in the fight for tribal rights. His former classmate, Teddy Roosevelt, made use of Lummis's dedicated activism in establishing a new approach to federal-tribal relations subsequently implemented by John Collier in the New Deal era.

Few people realize the "true grit" Lummis possessed. On December 5, 1887, he suffered a stroke that paralyzed the entire left side of his body. In hopes of regaining his health, he relocated to Isleta, New Mexico, where he fully recovered by 1891. But he never let that adversity intrude on his activities. This same

New Mexico residence also afforded him his first foray as a citizen activist for Indian rights, a cause he espoused until his death at sixty-nine in Los Angeles, in his beloved "El Alisal," a house he designed and built with local natural materials in the Arroyo Seco. It still stands in the plain at the foot of the Southwest Museum, which he founded in 1914.

Thompson has captured the numerous facets of Lummis's life with telling effect in this well-written and well-researched biography. For the first time, Lummis's bohemian and flamboyant lifestyle is fully explored, including his personal life. However, some may demur when Thompson calls Lummis "an iconoclastic oddball" (p. 70). That in my opinion, is debatable. That he was eccentric is true—but personal tastes vary. One thing is obvious: Charles Lummis was one of a kind. He would have fitted in very well with the Beat Generation, but he did all right in his own time and place, too, an observation made abundantly clear by this intriguing biography.

CHS

Jack London's Women.

By Clarice Stasz. (Amherst: University of Massachusetts Press, 2001, xvi, 393 pp., \$39.95 cloth.)

Reviewed by Earle Labor. Wilson Professor of American Literature at Centenary College of Louisiana and editor of The Portable Jack London.

It was in 1976, the centennial of Jack London's birth, that Clarice Stasz published "Androgyny in the Novels of Jack London." That article cogently described the "New Woman" as portrayed in London's fiction. Moreover, it shattered once and for all the stereotype of London as a he-man who specialized in red-blooded adventure stories for boy-men. Stasz concluded her essay by making it clear that "Jack London is no feminist's dream, but he is a male chauvinist's nightmare."

Over the quarter-century since the publication of that pioneering essay, Stasz has been a major voice in Londoniana, repeatedly providing new insights into the personality as well as the literary works of this extraordinarily complex and gifted author. In addition to numerous articles, her *American Dreamers: Charnian and Jack London* (1988) was another milestone in London scholarship. And now, in this most recent book, she presents a comprehensive examination not only of London's second wife and "Mate-Woman" but also of the other women who played vital roles in his singularly dramatic—indeed, often melodramatic—life.

First were London's "two mothers": Flora (Chaney) London,



Courtesy of University of Massachusetts Press.

the weird little spiritualist who endowed him with life, grit, and racial prejudice; and Virginia Prentiss, the splendid African-American woman who as his wet-nurse (and lifelong family friend) endowed him both emotionally and literally with the milk of human kindness. "Mammy Jennie," as Jack lovingly called her, has been treated kindly, if less than adequately, by most of London's biographers. Flora, on the other hand, has been the victim of considerable bad press—some of it deserved, much of it the result of her son's complaints that she never showed him any affection. Stasz sets this record straight, explaining that Flora's was "a fierce, unexpressed love," that she was "ever ready to help her only child," and that it was she "alone who stood behind his dream of becoming a writer."

After these two women came the great loves of London's early manhood. Prior to his going to the Klondike there was Mabel Applegarth, the fragile Victorian beauty who remained his admiring friend even after she was used as the model for the

prudish Ruth Morse in *Martin Eden*. And then, starting in 1899, there was the vivacious Anna Strunsky, who collaborated with him on *The Kempton-Wace Letters* and who thoughtfully declined his offer of marriage but never stopped loving him, though he married Bessie Maddern and she wed the wealthy socialist William English Walling.

London's impulsive, loveless marriage to Bessie was his most ill-calculated blunder, with tragic consequences for her and their two daughters, Joan and Becky. Disaffection, misunderstanding, insecurity, resentment—all the attendant ills of dysfunctional marriage and resultant divorce—left Bess and her daughters permanently damaged. Moreover, the sins of the father (and mother) would be passed down to future generations. Stasz chronicles this family history in painful detail.

There may be no hero in this account, but there are at least two heroines: Jack's older stepsister and his second wife. Eliza (London) Shepard was there for him all along, providing emotional and financial support during his early years, rescuing him from the shambles "Aunt Netta" Eames had made of his accounts during the *Snark* years, and assuming management of his Beauty Ranch in the years following. "Astute and efficient, Eliza was the perfect choice to translate Jack's unending ideas into practice," Stasz observes, "while at the same time she provided Charmian with much-valued female companionship."

It was Charmian who rescued Jack from the "man-mean" city and from his "long sickness." And it is Clarice Stasz who has rescued Charmian from those biographers who, since Irving Stone, have persisted in portraying her as a vain, self-centered, and homely *twit*. Far from this, Charmian was "a woman of fastidious politeness," one who "concerned herself with the world turmoil," one who confessed that she would "rather inspire a good healthy smile or laugh in this world than anything [she could] think of," one who could even turn "pain into an adventure." Intelligent, athletic, feminine, and sexy, she was an incarnation of the "New Woman." Exceptionally attractive, she continued to win admirers (including the Great Houdini) long after she had lost her one-and-only "Mate-Man." "Oh, men, my!" she confided in her diary, "One can't love 'em all, alas." Finally, it was she and Eliza (followed by Eliza's son Irving and his family) who managed, with measures nothing short of heroic, to preserve London's literary and agricultural legacies during the difficult financial years after his death.

Concerning London himself, Stasz asserts that she has intended to present him "not [as] an outsized villain, hero, or tragic figure, but as a gifted man who, like any of us, made both wise and foolish choices. . . . After all," she concludes, "I have been enthralled by [him], for he loved strong-willed questioning women." Readers of this remarkable history should find themselves likewise enthralled.

KWS



MORLEY BAER

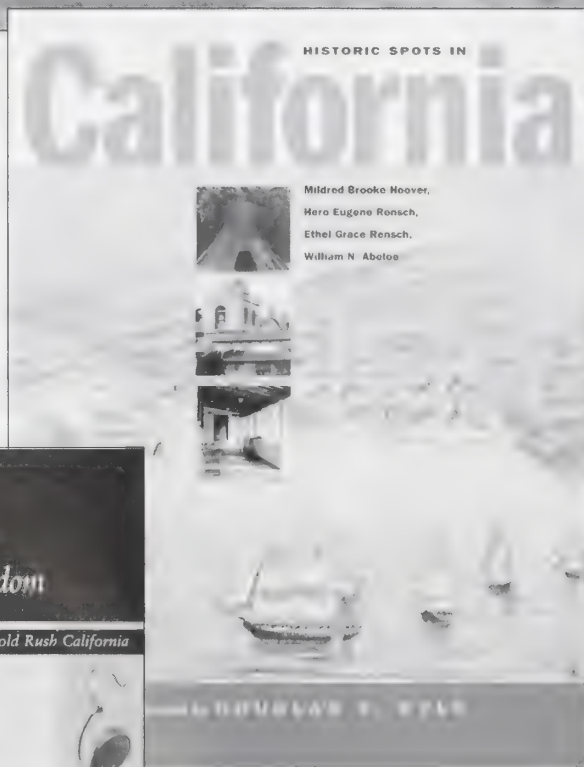
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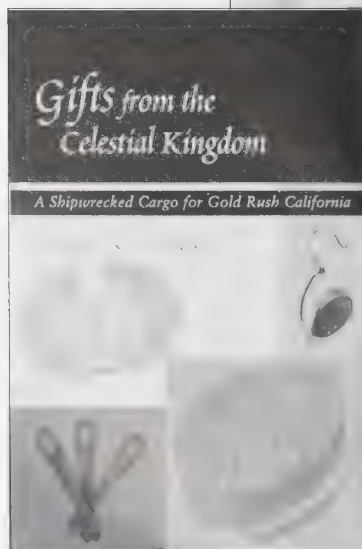
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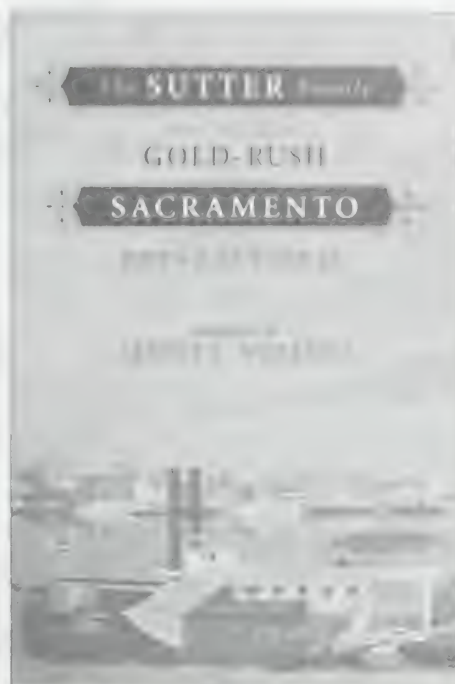
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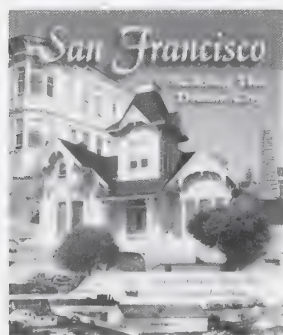
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nato, Joseph A. *Rethinking Home: A Case for Writing Local History*. Berkeley: University of California Press, 2002. \$18.95 (paper) ISBN: 0-520-23293-3. Order from: University of California Press; 1445 Lower Ferry Rd.; Ewing, NJ 08618.

owers, Q. David. *A California Gold Rush History: Featuring the Treasure from the S.S. Central Avenue*. Wolfeboro, N.H.: Bowers & Merena Galleries, Inc., 2002. \$199.00 (cloth) ISBN: 0943161878. Order from: Bowers & Merena Galleries, Inc.; Post Office Box 1224; Wolfeboro, NH 03894.

odie, Doug, and James Watson. *Big Bad Bodie: High Sierra Ghost Town*. San Francisco: Robert D. Reed Publishers, 2002. \$14.95 (paper), plus \$3.50 for shipping and handling. ISBN: 1-931741-10-7. Order from: Robert D. Reed Publishers; 750 La Playa Street, Suite 647; San Francisco, CA 94121.

ampbell, John Martin. *Magnificent Failure: A Portrait of the Western Homestead Era*. Stanford: Stanford University Press, 2001. Introduction by Kenneth W. Karsmizki. \$60.00 (cloth) ISBN: 0804738866. Order from: Stanford University Press; Stanford, CA 94305-2235.

Douglas, John A. *The California Idea of American Higher Education: 1850 to the 1960 Master Plan*. Stanford, Calif.: Stanford University Press, 2000. \$55.00 (cloth) ISBN: 0804731896. Order from: Stanford University Press; Stanford, CA 94305-2235.

Elliott, Thomas F. *Argonauts of California*. Las Cruces, N.M.: Barbed Wire Publishing, 2002. \$19.95 (paper) ISBN: 0-9711930-4-5. Order from: Barbed Wire Publishing; 1990 F. Lohman Ave., No. 225; Las Cruces, NM 88001.

Fetzer, Leland. *A Good Camp: Gold Mines at Julian and the Cuernavacas*. El Cajon

from: University of California Press; 1445 Lower Ferry Rd.; Ewing, NJ 08618

Loeb, Carolyn S. *Entrepreneurial Vernacular: Developer's Subdivisions in the 1920s*. Baltimore: The Johns Hopkins University Press, 2001. \$42.00 (cloth) ISBN: 0-8018-6618-9. Order from: The Johns Hopkins University Press; 2715 N. Charles St.; Baltimore, MD 21218-4319.

Records of a California Family: The Gold Rush Journals and Letters of Sonora's Gunn Family 1849-1859. Sonora, Calif.: Tuolumne County Historical Society, 2001. Reprint of 1974 edition, with index prepared by the Tuolumne County Genealogical Society. Paper, ISBN: 0-9652608-4-4. Inquiries to: The Tuolumne County Historical Society; Post Office Box 695; Sonora, CA 95370.

Swindle, Lewis J. *The Fraser River Gold Rush of 1858: As Reported by the California Newspapers of 1858: Was It a "Humbug?"* New Providence, N.J., BPR Publishing, 2001. Cloth, ISBN: 1552127214. Inquiries to: BPR Publishing; Central Ave., New Providence, NJ 07974.

Warrin, Donald and Geoffrey L. Gomes. *Land, As Far As the Eye Can See: Portuguese in the Old West*. Spokane: The Arthur H. Clark Company, 2001. \$39.95 (cloth) ISBN: 0-87062-306-0. Shipping charge of \$.50 waived in U.S.A. if payment accompanies order. Order from: The Arthur H. Clark Company; Post Office Box 14707; Spokane, WA 99214-0707.

Wicken, Ingrid P. *Pray for Snow: The History of Skiing in Southern California*. Norco, Calif.: Vasa Press, 2001. \$30.00 (paper) ISBN: 0971601402. Order from: Vasa Press; Post Office Box 273; Norco, CA 92860.

Sunbelt Publications, 2002. \$12.95 (paper) ISBN: 0-932653-48-0. "An informal and engaging history of San Diego's own Gold Rush." Order from: Sunbelt Publications; 1250 Fayette Street; El Cajon, CA 92020-1511.

Geary, Paul M. *Colonel John W. Geary in the Mexican War and California in '49*. Pacifica, Calif.: Shade Tree Press, 2000. Cloth, ISBN: 0-9706824-0-9. Inquiries to: Shade Tree Press; Post Office Box 766; Pacifica, CA 94044-3832.

[Gudde, Erwin Gustav]. *German Pioneers in Early California: Erwin G. Gudde's History*. Don Heinrich Tolzmann, editor. Bowie, Md.: Heritage Books, 2001. Cloth, ISBN: 078841822X. Inquiries to: Heritage Books, Inc.; 1540 E. Pointer Ridge Place; Bowie, MD 20716-1800.

Hise, Greg, and William Deverell. *Eden by Design: The 1930 Ohmsted-Bartholomew Plan for the Los Angeles Region*. Berkeley: University of California Press, 2000. \$17.95 (paper) ISBN: 0520224159. Order



Houston and Houston, "George D. Brewerton," pp. 2-23.

1. George Douglas Brewerton, "Declaration for Service Pension, War of 1846 With Mexico," Pension and Record Office, Commissioner of Pensions, War Department, Washington, D.C., July 10, 1890 and June 13, 1894. Courtesy Col. Merl M. Moore.
2. George D. Brewerton, "A Ride With Kit Carson Through the Great American Desert and the Rocky Mountains," *Harper's New Monthly Magazine*, vol. 7 (August 1853):306-307; and W. T. Sherman, by order of Col. R. B. Mason, Special Order No. 9, Headquarters, 10th Military Department, Monterey, California, March 10, 1848, in Col. J.D. Stevenson, *General Order Book, 1846-1848*, B.V. Stevenson, Courtesy of New-York Historical Society.
3. "Fine Arts: Williams and Stevens' Annual Sale," (New York) *Home Journal*, October 29, 1853, p. 3. Brewerton had seven canvases hanging at the Art Union before the auction.
4. "Fine Arts: Landscape Painting," (New York) *Home Journal*, February 19, 1853, p. 3.
5. George Douglas Brewerton, *The War In Kansas, A Rough Trip to the Border Among New Homes and Strange People* (New York: Derby & Jackson, 1856), 21.
6. Several more surviving sketches are at the Gilcrease Museum in Oklahoma. An album of one hundred drawings was sold at auction in the late 1990s.
7. J. Elet Milton, "Fort Brewerton," *New York History*, vol. 7 (1926):105-107, and miscellaneous papers, *Brewerton Family Papers, 1760-1910*, U.S. Military Academy Library, Special Collections, West Point, N.Y., n.p. (hereafter cited as BFP).
8. Although several dates have been ascribed to George Douglas Brewerton's birth, the correct date is 1828. The artist's father,

Henry Brewerton, spent nearly fifty years in the army, retiring as a brevet brigadier general after the Civil War. Henry originally entered West Point before he was twelve, but took a hiatus and re-entered the class of 1820. He accelerated his studies, however, and graduated fifth in the class of 1819, not yet eighteen. Among Henry Brewerton's more notable fellow cadets at the military academy were Samuel Ringgold (1800-1846), a hero in the battle of Palo Alto in the Mexican War, and George Washington Whistler (1800-1849), father of the artist James M. Whistler. *Tenth Annual Reunion of the Association of the Graduates of the United States Military Academy at West Point*, New York, June 12, 1879 (New York: D. Van Nostrand, 1879), 84-90; Francis B. Heitman, *Historical Register and Dictionary of the United States Army, From Its Organization, September 29, 1789, to March 2, 1903*, 2 vols. (Washington, D.C.: U.S. Government Printing Office, 1903), I:243, and "General H. Brewerton," Typescript, BFP, n.p.

9. The artist arrived in Charleston as an infant. The swampy terrain and mosquitoes of the South Carolina coast induced most residents to travel to more salubrious climates from May to October, so the Brewerton family would have left Charleston in summer. Their destination was probably Caroline Knight Brewerton's hometown of Newport, where a number of relations remained. After almost four years at the Southern port and the birth of a second child, Harriet, Henry left Charleston because of the effects of "an attack of the fever" in 1832. He and his family spent four years in Ohio, where he was charged with building more of the Ohio segment of the "Great National Road." The road would pass through Springfield, Ohio, where Brewerton's sister, Mary, was born in 1834. In 1838, the artist's brother,

Henry Feltus Brewerton, was born in New York, two years after Henry Sr. began a series of assignments in New York state that concluded with his appointment as head of West Point. The family is in New York City in 1840. See 1830 U.S. Census of South Carolina, St. James Goose Creek, Charleston County, 174; 1840 Census of New York, New York City, Eighth Ward, New York County, 391; 1850 Census of New York, Town of Cornwall, Orange County, 17. *Tenth Annual Reunion*, 84-90; "General H. Brewerton," Typescript, BFP, n.p.; George V. Cullum, *Biographical Register of the Officers and Graduates of the U.S. Military Academy at West Point, N.Y., From Its Establishment, 1802, to 1890*, 3 vols. (Boston: Houghton Mifflin and Company, 1891), I:209-210.

10. Pay Receipt, Henry Brewerton, Assistant Professor of Drawing, 30 April 1819, BFP.
11. George Douglas Brewerton, *Overland with Kit Carson: A Narrative of the Old Spanish Trail '48*, Stallo Vinton ed. (New York: Coward-McCann Inc., 1930), 23; Irene Weir, *Robert W. Weir, Artist* (New York: House of Field-Doubleday, 1947), 48; Henry Tuckerman, *Book of the Artists, American Artists' Lives and Comprehensive Biographies and Critical Sketches and of the Rise and Progress of Art in America* (New York: G. P. Putnam, 1867), 204 and 207; and Cullum, *Biographical Register*, I:39.
12. "Historical Sketch of Department of Drawing" in U.S. Military Academy, *The Centennial of the United States Military Academy at West Point, New York, 1802-1902* (Washington: Government Printing Office, 1902), 291 and 293.
13. See also William Gerdtts, "Robert Weir: Artist and Teacher of West Point" in *Robert Weir: Artist and Teacher of West Point* (West Point: Cadet Fine Arts Forum, 1976), 9-23. Gerdtts (p. 9) suggests that Weir's life could be sum-

- narized by "claim[ing] for him the position as a most representative artist of his age." Weir's assistants wrote some of the nation's earliest books on topography. Eastman, West Point class of 1829, wrote *Treatise on Topographical Drawing* (New York: Wiley and Putnam, 1837) during his time with Weir. Lt. Richard Somers Smith (1813-1877), a member of the class of 1834, succeeded Eastman. Pennsylvanian Smith, who became a drawing master at the U.S. Naval Academy in the 1870s, wrote *A Manual of Topographical Drawing* (New York: Wiley & Halsted, 1854) and *A Manual of Linear Perspective* (New York: Wiley & Halsted, 1857). Heitman, *Historical Register*, 1:394 and 1:902.
- Cullum, *Biographical*, 1:38-40; U.S. Military Academy, *Regulations Established for the Organization and Government of the Military Academy At West Point* (New York: Wiley & Putnam, 1839), 12; U.S. Military Academy, *Official Register of the Officers and Cadets of the U.S. Military Academy, West Point, New-York* (sic), June 1841, 6, 22-23, and June 1849, 3, 22-23; "Historical Sketch," 290-93.
- Henry Tuckerman, *Book of the Artists, American Artists' Lives and Comprehensive Biographies and Critical Sketches and of the Rise and Progress of Art In America* (New York: G. P. Putnam, 1867), 207.
- James L. Morrison, "Getting Through West Point: The Cadet Memoirs of John C. Tidball, Class of 1848," *Civil War History* 26 (December 1980), 321, and Heitman, *Historical Register*, 1:961. Tidball wrote his memoirs of the same title in 1892; they are at the U.S. Military Academy Library.
8. Stephen W. Sears, George B. McClellan, *The Young Napoleon* (New York: Ticknor & Fields, 1988), 6-7, and James I. Robertson Jr., *Stonewall Jackson, The Man, The Soldier, The Legend* (New York: MacMillan Publishing, 1997), 38-41. Sears writes that drawing "was the only course in his Academy years that McClellan failed to master." At one point, Jackson ranked seventy-fourth in drawing of seventy-nine classmates. Whistler, whose father had graduated from West Point with Henry Brewerton, left West Point in 1854 after three years.
19. McClellan was unhappy while working at West Point; a disagreement over his status on the staff caused friction between him and Henry Brewerton. Sears, *McClellan*, 28-29. For a spirited account of McClellan and his classmates at West Point around the time Douglas Brewerton was there, see John C. Waugh, *The Class of 1846, From West Point To Appomattox: Stonewall Jackson, George McClellan and Their Brothers* (New York: Ballantine Books, 1994).
20. A very skilled artist when at West Point, George Derby arrived in California as an army engineer about eight months after

- Brewerton left the territory. His nickname "Squibob" and pen name John Phoenix became familiar to Californians from the 1850s, when he began publishing his satirical commentary while participating in regional engineering surveys. Tidball was one of the artist-engineers of the 1853 rail survey along the 32nd parallel. See Anthony Kirk, "In A Golden Land So Far: The Rise of Art in Early California," *California History* 71 (1992:1): 2-23 and "Picturing California," *California History* 76 (1997:2-3): 357-374; Canice (sic) G. Ciruzzi, "'Phoenix' Revisited: Another Look At George Horatio Derby," *Journal of San Diego History* (Spring 1980): 77-89; and James L. Morrison, "Getting Through West Point: The Cadet Memoirs of John C. Tidball, Class of 1848," *Civil War History* 26 (December 1980): 304-325.
21. Both men's sons served in the regiment. William George Marcy (d. 1896) was a captain of the commissary, and in 1849, was secretary to California's constitutional convention. Matthew Stevenson, described in the press as "every inch a soldier," became regimental adjutant; he died at Sacketts Harbor, N.Y., during the Civil War. His father, former New York state legislator Jonathan Drake Stevenson, was born on Staten Island to Boston native Matthew Stevenson (1776-1822). After his California military career ended with the dissolution of the New York regiment in the fall of 1848, the elder Stevenson embarked on a long career in California as a lawyer and real estate investor. In 1872, he became U.S. shipping commissioner, holding the post for more than two decades. See *The New York Volunteers in California: With Stevenson to California* [by] James Lynch and *Stevenson's Regiment in California* [by] Francis Clark (Glorieta, N.M., Rio Grande Press, 1970). Lynch's book was first published in 1896, and Clark's in 1882. Clark had been a member of Company D of the New York regiment and remained in California for a period after 1848, living in Stockton and becoming an early associate judge in San Joaquin County. He served in the Civil War, returning to New York as a businessman. Clark became not only the historian of the Stevenson regiment, but also a champion of proper pensions for the group. "Francis D. Clark," *Daily Alta California*, August [25?], 1878, p. 2.
22. Secretary of War W. L. Marcy to Gen. S. W. Kearney, September 12, 1848, House Executive Document No. 17, 31st Congress, 1st Session, Serial 573, 11 vols. V:241.
23. "Westward, Ho!," *New York Express*, cited in *Boston Evening Transcript*, September 25, 1846, p. 2.
24. "New York Volunteers and Artillery Company, 1846-1848" in H. H. Bancroft, *The Works of Hubert Howe Bancroft*, History of

- California, and A. Thompson, *Stevenson's Regiment: The History, Company, 1846, 1847, 1848, 1849, 1850, 1851, 1852, 1853, 1854, 1855, 1856, 1857, 1858, 1859, 1860, 1861, 1862, 1863, 1864, 1865, 1866, 1867, 1868, 1869, 1870, 1871, 1872, 1873, 1874, 1875, 1876, 1877, 1878, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900, 1901, 1902, 1903, 1904, 1905, 1906, 1907, 1908, 1909, 1910, 1911, 1912, 1913, 1914, 1915, 1916, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025*, cited in Clark, 15.
25. On Stevenson's role in the California Volunteers, see *The New York Volunteers in California: With Stevenson to California* [by] James Lynch and *Stevenson's Regiment in California* [by] Francis Clark (Glorieta, N.M., Rio Grande Press, 1970).
26. George Douglas Brewerton, *Argonaut Memories*, 1878, MS 212, H. H. Bancroft Collection, Bancroft Library, University of California, Berkeley, 19-21. Murray remained in California after the Mexican War and became a state legislator and judge. He died in San Luis Obispo in 1875.
27. *Ibid.*, 22 and 24.
28. George Douglas Brewerton, *Argonaut Memories* (San Francisco: Frank Eastman & Co., 1887), 29. Brewerton's name on the roster of the Society of California Pioneers lists 25 August 1847 as his arrival date.
29. Stevenson had been private secretary to Daniel D. Tompkins (1774-1835), judge, former governor of New York, vice president of the United States, and, earlier in the century, guardian to an orphaned child, Henry Brewerton, the lieutenant's father.
30. George Douglas Brewerton, "Declaration for Service Pension, War of 1846 With Mexico," Pension and Record Office, Commissioner of Pensions, War Department, Washington, D.C., June 13, 1894. The *Southampton* left Norfolk, Virginia February 22, 1847, and arrived in Monterey on August 18, 1848. *Deck Log USS Southampton*, February 9, 1847, to April 11, 1849, National Archives and Records Administration, Washington D.C.
31. Brewerton was transferred to Company K, which traveled on the *Loo Choo* along with Company C. Clark, *Stevenson's Regiment*, 47-49, and Brewerton, "A Ride With Kit Carson," 306.
32. Brewerton, *Argonaut Memories*, 29.
33. "A Ride With Kit Carson Through the Great American Desert and the Rocky Mountains," *Harper's New Monthly Magazine*, Vol. 7 (August 1853), 306.
34. The nameless vessel, built by an American as a pleasure craft for the Russian governor of Alaska, arrived in the harbor October 19. (San Francisco) *Californian*, October 20, 1847, p. 3.
35. Brewerton, *Argonaut Memories*, 19-20.
36. (San Francisco) *Californian*, October 20, 1847, p. 3.
37. *Ibid.*, November 17 and December 1, 1847, p. 2.
38. Leese, a founder of the town of Salinas, was married to Rosalia Vallejo. Mariano G. Vallejo was later elected to the constitutional convention of 1849 and to the California state Senate of California.
39. The steamer is reported at Sonoma on 25

- November 1847 in the (San Francisco) *California Star*. The craft was restored after sinking and then ran on inland waters for other owners. Brewerton, *Argonaut Memories*, 19; and Bancroft, *The Works of Hubert Howe Bancroft*, History of California, vol. V, 1846-1848, 39 vols. (San Francisco: The History Company, 1886), XXII: 575-581.
40. (San Francisco) *Californian*, February 16, 1848, p. 2.
41. Ibid.
42. Brewerton *Argonaut Memories*, 29. The Custom House had been built in 1844. William T. Sherman, in Monterey since early 1847 as an aide to Colonel Mason, wrote: "Around the Plaza were a few houses, among them the City Hotel and the Custom-House, single-story adobes with tiled roofs, and they were by far the most substantial and best houses in the place." Sherman could not understand why some of his friends were buying property in "such a horrid place as Yerba Buena." William Tecumseh Sherman, *Memoirs of William T. Sherman* 2 vols. (New York: D. Appleton and Co., 1875), I:33.
43. John H. Merrill, San Francisco, to Thomas Oliver Larkin, January 22, 1848, in George P. Hammond, ed., *The Larkin Papers, 1847-1848*, 11 vols. (Berkeley: University of California Press, 1960), VII:122-123. Larkin, who had been in California since 1832, became U.S. consul in 1844. See Harlan Hague, "'The Jumping Off Place of the World': California and the Transformation of Thomas O. Larkin," *California History* 70 (Winter 1991): 352-65.
44. John H. Merrill to Thomas Oliver Larkin, San Francisco, January 22, 1848, in Hammond, *Larkin Papers*, VII:122-123. Merrill lived for a time in San Jose and was living in Washington, D.C. in 1882, where his son, Squire G. Merrill, worked with the adjutant general's office. Clark, *Stevenson's Regiment*, 48, and Hubert Howe Bancroft, *California Pioneer Register and Index 1542-1848, Including Inhabitants of California, 1769-1800 and List of Pioneers in Hubert Howe Bancroft, History of California* (San Francisco: The History Company, 1884-1890), 246.
45. Brewerton, "Declaration for Service Pension, 13 June 1894."
46. George Douglas Brewerton to William Marcy, filed at the office of the U.S. Secretary of State, February 2, 1857. National Archives and Records Administration, Washington, D.C., Letters of Application and Recommendation, Franklin Pierce and James Buchanan, 1853-1861, General Records of the Department of State, Record Group 59, M967.
47. In his recollections, Brewerton calls his ship the *Barrington*, but both the 1847 press and Brewerton's later recollections show that the ship was the *Barnstable*. Brewerton, "A Ride With Kit Carson," 306; Brewerton, *Argonaut*, 29; "Passengers: In The Barnstable" and "Sailed: Ship Barnstable for Boston via Monterey and San Diego," *Californian*, March 22, 1848, p. 3.
48. The next two installments by Brewerton were titled "Incidents of Travel in New Mexico," *Harper's New Monthly Magazine*, vol. 8 (April 1854): 577-96, and "In The Buffalo Country," *Harper's New Monthly Magazine*, vol. 25 (September 1862): 447-60. The last installment, published while Brewerton was serving in the Civil War, was delayed because the manuscript had been thought lost in a fire at the publishers. They are compiled in Brewerton, *Overland with Kit Carson*.
49. Brewerton, "A Ride With Kit Carson," 307; Milo Milton Quaife, ed., *Kit Carson's Autobiography* (Lincoln, Neb.: University of Nebraska Press, 1966), 120 and 122; and Clark, *Stevenson's Regiment*, 49.
50. Brewerton, *Argonaut Memories*, 29.
51. Brewerton, "A Ride With Kit Carson," 307.
52. George Douglas Brewerton, Speech to The Associated Pioneers of Territorial California, New York, August 1, 1878, in Samuel Upham, *Notes of a Voyage To California Via Cape Horn, Together With Scenes in El Dorado, 1849-1850* (Philadelphia: Printed by the Author, 1878), 494; Brewerton, "A Ride With Kit Carson," 307; William T. Sherman to George D. Brewerton, cited in "California Pioneers, A Letter From General Sherman Read At Their Meeting Last Night," *Daily Alta California*, November 8, 1887, p. 2, and *New York Times*, November 16, 1887, p. 4. Sherman had written a similar description of Carson in his 1875 memoirs.
53. Brewerton, "A Ride With Kit Carson," 307, 309.
54. Ibid., 310-311.
55. Ibid., 311.
56. Ibid., 311-312.
57. Ibid., 315-16, and *In The Buffalo Country*, 449. Brewerton notes that caravans traveled "from two to three miles an hour, and the distance driven varies, according to the proximity of water, from fifteen to forty miles per day."
58. Brewerton, "A Ride With Kit Carson," 316-317.
59. Brewerton, "Incidents of Travel," 595-96.
60. Ibid.
61. Brewerton, "A Ride With Kit Carson," 318.
62. Twain's description of Indians, including "Digger Indians," in Chapter 19 of *Roughing It* (1872), is equally egregious.
63. Brewerton, "A Ride With Kit Carson," 321. Carson had traversed the trail with John Fremont in 1844, during which several travelers had been mutilated or captured by the local Indians.
64. Brewerton, "A Ride With Kit Carson," 323.
65. In his account, Brewerton confuses the Green and Grand rivers, writing that the Grand River came first in their trek. *History of Washington, the Evergreen State, From Early Dawn to Daylight*, 2 vols. (New York: American Historical Publishing Co., 1893), I:1.
66. Brewerton, "A Ride With Kit Carson," 31.
67. For an account of the New Mexico portion of the trip, see Jourdan Houston, "George Douglas Brewerton, Pioneer Artist of Territorial New Mexico," *New Mexico Historical Review* 73:3 (1998): 207-233.
68. Brewerton married Fannie A. Whiting on December 1848. U. S. Bureau of Pension Affidavit of Parmenas T. Turnley, La County Illinois, 21 November 1902, filed December 1902. Affidavit courtesy of C. Merl Moore.
69. "Fine Arts: Mr. Brewerton's Pictures," *Home Journal* (New York), May 28, 1853, p. 2. The painting was on exhibit at Williams and Stevens. In addition to the "great American desert" scene, the artist exhibited views of the "grandeur of a Rocky Mountain glen" and the "luxurious vegetation of a Prairie."
70. *Catalogue of a collection of Paintings by Celebrated Artists . . . To Be Sold On Monday Morning, Jan. 25 [1869] . . . At the Gallery of A. A. Childs & Co. . . . Samuel Hatch & Co, Auctioneers, 4, and Boston Evening Transcript*, January 25, 1869, p. 3.
71. This canvas is in the Oakland Museum Kahn Collection. Paul C. Mills Archive of California Art, Oakland Museum Research Report, 31 March 1969, 1; Harold Steiner, *The Old Spanish Trail Across the Mojave Desert: A History and Guide* (Las Vegas, Nev.: The Haldor Company, 1999), and LeRoy R. Hafen and Ann W. Hafen, *Old Spanish Trail, Santa Fe to Los Angeles* (Glendale, Calif.: The Arthur H. Clark Company, 1954). The Steiner volume is a detailed field guide for those who wish to follow the Old Spanish Trail and trace its history across the desert.
72. Horatio Greenough, "American Art," in Henry Tuckerman, *A Memorial to Horatio Greenough* (New York: G. P. Putnam & Co., 1853), 108.
73. "Fine Arts: Mr. Brewerton's Pictures," *Home Journal* (New York), May 28, 1853, p. 2.
74. Whiting, a New York native, was a West Point alumnus, class of 1832. Among Whiting's fifteen-by-twenty-inch images were scenes of Monterey taken from "a housetop near the Plaza" and from Independence Hill "in the rear of the Bishop's Palace," as well as a view of Monterey Heights and of the "Valley towards Saltillo." Among Whiting's other views from the field during his career were scenes of Florida, the prairies, and the Mexican War, and he was praised as an artist of "genius of a high order, with science, patience and enthusiasm, and fidelity to nature." Heitman, *Historical Register*, I:1029-30; "Army Portfolio," *Boston Evening Transcript*, August 27, 1847, p. 2, and

The Army Portfolio. *Boston Evening Transcript*, September 7, 1847, p. 2.

Hutton worked in 1849 as an assistant during the surveying of Los Angeles. He also left diaries and letters from mid-century with references to the New York Regiment. Nearly one hundred of his sketches are at the Huntington Library in San Marino. See Willard O. Waters, ed., *California 1847-1852: Drawings by William Rich Hutton* (San Marino: Huntington Library, 1956), and William Rich Hutton, *Glances at California, 1847-1853, Diaries and Letters of William Rich Hutton*. (San Marino: The Huntington Library, 1942).

"The Fine Arts in California," *San Diego Union*, June 10, 1851, p. 2, and "The Rival Sculptors," *Alta California*, April 26, 1851, p. 2. The San Francisco press had waxed that "lovers of Fine Arts will be delighted to hear that California has attracted not only men of spirit and enterprise from all nations, but also men of refined tastes and artists of high talents in almost all branches of practical and ornamental art." Sources for background on early California art include Janice T. Driesbach, "Landmarks of Early California Painting: The Crocker Art Museum Exhibition," *California History*, vol. 71 (Spring 1992): 24-59, 143-144; Janice T. Driesbach, Harvey L. Jones, and Katherine Church Holland, *Art of the Gold Rush* (Oakland, Calif.: Oakland Museum of California, 1998); and Edan Milton Hughes, *Artists of California, 1786-1940* (San Francisco: Hughes Publishing Co., 1986).

7. The Rocky Mountain canvas, cited in the "Fine Arts" column in the *Home Journal* of February 19, 1853, was titled "Landscape" in the Crystal Palace catalogues. James Yarnall and William Gerdtz, *The National Museum of American Art's Index to American Art Exhibition Catalogs: From the Beginning Through the 1876 Centennial Year*. 6 vols. (Boston: G. K. Hall & Co., 1986), 1:440; "Our Crystal Palace," *Putnam's Monthly* 2 (August 1853): 125, and Charles Neider, ed., *The Complete Travel Book of Mark Twain* (Garden City, N.Y.: Doubleday and Company, 1966), ix.

78. "The Infant of the Monthlies," *New York Daily Times*, June 15, 1854, p. 5, and "To Those Not Born on the Soil," *Young America*, vol. 1, No. 1 (July 1854): 8. The latter essay by Brewerton originally appeared in the *New York True American*.

79. See Brewerton, *The War in Kansas*, 15-16, 206, and "Brewerton's War in Kansas," *New York Daily Times*, April 10, 1856, p. 5. The music to *God Save the Union* was written by Carl Wolfsohn (1834-1907). Brewerton published a lengthy poem in memory of Maj. Gen. Ormsby MacKnight Mitchell (1802-1862), astronomer and new commandant of the Department of the South who had died of ill-

ness, in *The New South*, Vol. 1, No. 12 (Port Royal, S.C.), November 8, 1862, p. 1. The poem also appeared as a broadside, printed in Beaufort, S.C. Brewerton published several other war-related items before returning to New York in 1864. "Colonel George Douglas Brewerton," *Brooklyn Eagle*, February 1, 1901.

80. Clark S. Marlbor, *A History of the Brooklyn Art Association With An Index of Exhibitions* (New York: James F. Carr, 1970), 131. The association was founded just before the Civil War; Brewerton showed his paintings at its exhibitions from 1867 to 1877. The price of the pastels appeared in an advertisement titled, "George D. Brewerton, Artist, in Oil, Pencil or Pastel" at the end of Brewerton's 66-page volume, *Ida Lewis, The Heroine of Lime Rock* (Newport: A. J. Ward, 1869).

81. Like the desert scene, *Coast Scene* measured 34 inches high by 27 inches. Brewerton's other works in the Boston sale were *Lightship in the Fog* (14 by 22 inches); *Mount-Desert Light, Storm Approaching* (14 by 22 inches); *Winter on the Delaware* (14 by 22 inches). *Catalogue of a Collection of Paintings by Celebrated Artists . . . To Be Sold On Monday Morning, Jan. 25 [1869]... At the Gallery of A. A. Childs & Co. . . . Samuel Hatch & Co, Auctioneers*, 3, 4, 9 and 10, and Marlbor, *A History of the Brooklyn Art Association*, 131.

82. Clark in Upham, *Notes of a Voyage To California*, 493-94. Upham (ca. 1819-1885) arrived in California in 1849, mining and then becoming a journalist and owner of the *Sacramento Transcript*. He was called "the Poet of the Pioneers" and later lived in Philadelphia. John Sutter and John C. Frémont were the first presidents of the Associated Pioneers of Territorial Days, which was founded in February of 1875. Five other Stevenson regiment veterans at the 1878 dinner were Francis D. Clark, regimental historian, Joseph Evans, William H. Rogers, Col. George M. Leonard, and Charles J. McPherson. E. C. Kemble, first editor of the *Alta California*, attended also.

83. Brewerton vs. Brewerton, Petition for Divorce, District Court of Lancaster County, Nebraska, 4 November 1885. Docket No. 4349. The divorce was granted in early 1886.

84. Brewerton, *Argonaut Memories*, 24. The 1887 event at Camp Taylor is reported also in *Society of California Pioneers, Thirty-Sixth and Thirty-Seventh Anniversaries of the Admission of California into the Union . . . September 9th, 1886 and September 9th, 1887* (San Francisco: Frank Eastman & Co., 1887).

85. "What Kit Carson Was Like," *New York Times*, November 16, 1887, p. 2, and "California Pioneers, A Letter From General Sherman," *Daily Alta California*, November 8, 1887, p. 1.

86. "Art and Artists," *San Francisco Chronicle*, November 18, 1888, p. 12.

87. The *Brooklyn Museum* (see *Brooklyn Museum*, 1892) is listed in the *Brooklyn Directory* (1892) with an office in Brooklyn by the couple noted in 1892. (Douglas Brewerton is listed as having been in the city for more years after which only his name appears in the *Brooklyn Directory* (1899).) Douglas Brewerton appears, also, in the 1890 Washington State Veterans Schedule for Pierce County, Washington, Tacoma Enumeration District 4, p. 4. His death certificate indicates that he had returned to Brooklyn in 1892.

88. *History of Washington*, 1:148.

89. *Ibid.* Although Hawthorne, who had written a similar history of Oregon for the same publisher, is listed as editor, he did not learn about the book until after its publication. Brewerton, responsible for the entire work, refers to himself as the "assistant editor and compiler" of the book.

90. Brewerton is in the Brooklyn city directory in 1898 at 371 Fulton Street. The artist died at the Home for Incurables in Brooklyn.

91. "Colonel George Douglas Brewerton," *Brooklyn Eagle*, February 1, 1901, and *New York Times*, February 1, 1901, p. 9. He was memorialized in other newspapers in New York and in Newport, R.I.

92. Brewerton, *Argonaut Memories*, 23.

Marcus, "Theater Music in Los Angeles," pp. 24-39.

I would like to thank the participants of the Los Angeles History Research Group at the Huntington Library, for their valuable comments and suggestions on a paper I presented on this topic in September 1999. My thanks also go to Lance Bowling, Andrew Rolle, Gloria Lothrop, and the anonymous reader for *California History*.

1. On the real estate boom, see Glenn S. Dumke, *The Boom of the Eighties in Southern California* (San Marino, Calif.: Huntington Library, 1944). Los Angeles rose from a population of 11,183 inhabitants in 1880 to more than 50,000 by the end of the decade; see Bernard Marchand, *The Emergence of Los Angeles: Population and Housing in the City of Dreams, 1940-1970* (London: Pion, 1986), 63; Andrew Rolle, *Los Angeles: From Pueblo to City of the Future*, 2nd ed. (San Francisco, Calif.: MTL, 1995), 36. On the impact of the railroads, see William Deverell, *Railroad Crossing: Californians and the Railroad, 1850-1910* (Berkeley: University of California Press, 1994).

2. *The Mirror*, September 25, 1893, p. 3. Album No. 23, Lynden E. Behrmer Collection. The Prints and Ephemera Division of the Rare Book Department (hereafter BC) at the Huntington Library. George D. Betts was the editor of the Los Angeles Theatre programs.

which took the name of *The Mirror* in October 1892, and became *The Players* in April 1894. The future impresario Lynden Behymer (1862-1947) took over as editor of the program in February 1894. The theater was for plays, and was called the Burbank Opera House, located on Main Street, Los Angeles.

3. A pioneer in Los Angeles wrote this comment in his diary in 1842, cited by the historian J.M. Guinn; see John Koegel, "Canciones del país: Mexican Musical Life in California after the Gold Rush," *California History* LXXVIII, no. 3 (Fall 1999): 177.
4. Stearns's Hall remained open at least until 1875. On groups who performed there, see Koegel, "Canciones del país," 178-79, and "Calendar of Southern California Amusements 1852-1897 Designed for the Spanish-Speaking Public," *Inter-American Music Review* XIII, no. 2 (Spring-Summer 1993): 123-24; Robert Stevenson, "Music in Southern California: A Tale of Two Cities," *Inter-American Music Review* X, no. 1 (Fall-Winter 1988): 58.
5. On Temple Theater, see Koegel, "Canciones del país," 179, and, "Calendar of Southern California Amusements," 124. On the Merced Theater, see Howard Swan, *Music in the Southwest, 1825-1950* (San Marino, Calif.: Huntington Library, 1952), 120-122; Moshe Yaari, "The Merced Theater," *Historical Society of Southern California Quarterly* 37 (September 1955): 195-210.
6. Swan, *Music in the Southwest*, 122. Between 1871 and 1893, it was located at 231 South Spring Street, and then stood at other locations between 1893 and about 1944. Koegel, "Canciones del país," 180; Stevenson, "Music in Southern California," 59-60. Stevenson describes the original theater as "a shingle two-story building with three windows and a middle entrance." See his "Carreño's 1875 California Appearances," *Inter-American Music Review* V, no. 2 (Spring-Summer 1983): 13.
7. *Los Angeles Times*, Tuesday morning, December 13, 1881, p. 3; *Los Angeles Times*, Thursday morning, January 5, 1882, p. 3. The letter by Clara Brown was published in the *San Diego Union*, March 25, 1883. Cited by Sue Wolfer Earnest, "An Historical Study of the Growth of the Theatre in Southern California, 1848-1894," 3 vols. (Ph.D. diss., University of Southern California, 1947), vol. 1: 388.
8. The Los Angeles Theatre, located on Spring Street between Second and Third streets, became the New Los Angeles Theatre on October 13, 1890, but by 1899 had resumed its earlier name. It will be referred to here by its original title throughout. The office for the weekly program for the Los Angeles Theatre was located at the northeast corner of Second and Broadway. The Grand Opera

House (first known as Childs's Opera House and renamed the Orpheum in 1895) was located on Main Street between First and Second streets, and the office for its weekly program (called first *Footlights* and later *The Stage*), which Lynden Behymer edited, was at 202 North Main Street, at the corner of Requena Street. See *Los Angeles Times*, Wednesday, January 2, 1895, p. 1; *Footlights*, May 8, 1893, p. 3, Album No. 23, BC.

9. The dimensions of the building were reported as being seventy-two by twenty feet. *Los Angeles Daily Herald*, May 25, 1884; *Los Angeles Times Illustrated Weekly*, March 28, 1914; both articles are cited by Earnest, "An Historical Study," vol. I: 396. Catherine Parsons Smith discussed Behymer and his role in Los Angeles's cultural life in a paper, "'Our Awe Struck Vision': The Emergence of L.E. Behymer as an Impresario," given at the fiftieth anniversary of the Music Library Association, Pasadena Public Library, October 18, 1991. I would like to thank Lance Bowling for providing me with a copy of the paper.
10. Both Harris Newmark and J. A. Graves claim that the Grand Opera House had a capacity of 1,800 people: Harris Newmark, *Sixty Years in Southern California, 1853-1913* (Boston: Houghton Mifflin, 1930), 543; J. A. Graves, *My Seventy Years in California, 1857-1927* (Los Angeles: Times-Mirror Press, 1927), 128. On lighting, see Eddy S. Feldman, *The Art of Street Lighting in Los Angeles* (Los Angeles: Dawson's Book Shop, 1972), 26-30.
11. John Northcutt, "Music Halls of Yesterday," January 19, 1931, California Historical Society Collection, USC Special Collections.
12. Review [anon.], December 17, 1888, Theater Programs, George A. Dobinson Collection, Los Angeles Public Library.
13. The theaters included Horton Hall (est. 1870), Leach's Opera House (est. 1885), Louis Opera House (est. 1887), and Fisher Opera House (est. 1892). Stevenson, "Music in Southern California," 41-42.
14. Douglas Gilbert, *American Vaudeville: Its Life and Times* (New York and London: Whittlesey House, 1940), 61-62.
15. Review [anon.], May 27, 1890, Album No. 56, BC.
16. *Los Angeles Times*, Thursday, January 3, 1895, p. 6.
17. For Lydia Thompson's New York appearances and the sensation they caused, see Robert C. Toll, *On With the Show! The First Century of Show Business in America* (New York: Oxford University Press, 1976), 216-21.
18. Review [anon., n.d.], 1888, Album No. 42, BC. While all critics of the *Los Angeles Times* were anonymous during this period, the wife of Charles Lummis, Dr. Dorothea Lum-

mis, is known to have written critical views, as well as Eliza Otis, who "performed nearly all the editorial functions at the paper." I would like to thank Ralph Schall for providing this information. George Dobinson wrote dramatic reviews and may have written music reviews for the *Times*. Burton Lewis Karson, "Music Criticism in Los Angeles, 1881-1895" (M.A. thesis, University of Southern California, 1959), 58-59.

19. Program [untitled], Los Angeles Theatre, July 24, 1892, Album No. 26, BC; *Los Angeles Times*, Monday, July 25, 1892, p. 4.
20. The review cited here appeared in the *Los Angeles Times*, Sunday, November 17, 1890, p. 35. The critic noted specifically the Ovide Musin Concert Company, which featured violinist Ovide Musin and his wife, soprano Annie Louise Tanner-Musin, and others, and had come "directly here from a triumphal tour of the Mexican republic." The contract was for \$1,200 for a week's engagement at the Orpheum: "Double Date for Musin," *Los Angeles Times*, Saturday, November 16, 1895, p. 6. The husband and wife duo had already appeared at the Los Angeles Theatre on April 11 and 12, 1892. Program, Los Angeles Theatre, Album No. 20, BC.
21. Richard Traubner, *Operetta: A Theatrical History* (Garden City, New York: Doubleday, 1983); Camille Crittenden, *Johann Strauss and Vienna: Operetta and the Politics of Popular Culture* (Cambridge: Cambridge University Press, 2001), esp. chap. 1.
22. Program [untitled], Los Angeles Theatre, April 9, 1891, Album No. 26, BC. See also Program [untitled], Grand Opera House, May 6, 1889, and Program [untitled], Grand Opera House, April 28, 1890: Theater in LA Scrapbook, File 1155, f. 23r and 28v, Seaver Center for Western History Research, Natural History Museum of Los Angeles County. The critic also noted that the "tune-ful composition has been heard here before, rendered by the same company and almost by the same cast." *Los Angeles Times*, Friday, April 10, 1891, p. 4.
23. *Los Angeles Times*, Thursday, April 13, 1893, p. 4. They repeated their success in 1895, the local critic referring to them as "the cleverest company on the American highway of melody." *Los Angeles Times*, Saturday, November 16, 1895, p. 6. The Bostonians produced *Robin Hood*, which appeared in New York for the first time on September 28, 1891, at the Standard Theatre, and had its one-thousandth performance on June 19, 1893, at the Garden Theater. George C. Odell, *Annals of the New York Stage* (New York: Columbia University Press, 1949), 15 vols., vol. XV: 34, 314.
24. Odell, *Annals of the New York Stage*, vol. XV: 89. The first time the troupe is known to have appeared in Los Angeles was 1891,

- presenting the operetta *The Pupil in Magic* at the Grand Opera House. Almost all the members of the cast had German names. Program [*The Play Bill*], Grand Opera House, July 7, 1891, Photo Collection No. 2627, Seaver Center for Western History Research, Natural History Museum of Los Angeles County. A review is in *Los Angeles Times*, Wednesday, July 8, 1891, p. 4.
- Program [*The Play Bill*], Grand Opera House, February 28, 1893, Album No. 23, BC; *Los Angeles Times*, Wednesday, March 1, 1893, p. 4. The advertisement for the show states that they had enjoyed a long run at the Baldwin Theater in San Francisco.
- Palmer Cox was the librettist and Malcolm Douglas the composer; it is not known if they were local or outside talent. *Los Angeles Times*, Friday, February 8, 1895, p. 6; Program [untitled], Los Angeles Theatre, February 7-9, 1895, Dobinson Collection, Los Angeles Public Library. The show returned to Los Angeles two years later: Program [untitled], Los Angeles Theatre, Jan. 5, 1897, Album No. 51, f. 14, BC.
- The Mirror*, April 9, 1894, p. 5; *The Players*, June 22-23, 1894, p. 5, Album No. 27, BC; *Los Angeles Times*, Saturday, June 23, 1894, p. 1. *Los Angeles Times*, Saturday, June 23, 1894, p. 4; *The Mirror*, April 19, 1893, p. 9, Album No. 23, BC. Professor Willhartitz (1836-1915), a music teacher and performer, contributed much to the city's musical life. He was the first president of the Gamut Club, the leading musical society in Los Angeles. In 1894 he oversaw a musical evening of the Unity Club (which met each month) devoted to the music of Carl Maria von Weber (1786-1826); he gave a paper titled "Weber and His Works," and took part in the evening's musical performances. *Los Angeles Times*, Thursday, February 8, 1894, p. 6.
- The Mirror*, August 21, 1893, p. 3, Album No. 23, BC. The editor of the program then, George Betts, solicited "Communications of a theatrical nature" from the public, so the comment may have come from a local patron.
- The musicians in the orchestra at the time of the opening of the Los Angeles Theatre consisted of Harley Hamilton, leader and first violin; Elmer Wachtel, second violin; Robert Nelson, viola; Tom Connor, bass; Max Lenzberg, flute; V. Hurka, clarinet; W.H. Brown, cornet; E. Binder, trombone; and George R. Held, drums. C.L. Bagley, "History of the Band and Orchestra Business in Los Angeles," *The Overture* 5, no. 5 (June 15, 1925): 4. On Harley Hamilton, see Catherine Parsons Smith, "'Something of Good for the Future': The People's Orchestra of Los Angeles," *19th Century Music*, XVI, no. 2 (Fall 1992): 152-53; Earnest, "An Historical Study," vol. 1: 623-24.

31. The McFadden Company, the Boston troupe who performed the play, was booked for the entire week, December 31, 1888-January 6, 1889. The company also had its own ensemble, "McFadden's Famous Eclipse Quartette," which played between Acts I and II. Program [untitled], Los Angeles Theatre, January 1, 1889, Album No. 25, BC.
32. Program [untitled], Los Angeles Theatre, October 21, 1898[?], Album No. 51, f. 88, BC.
33. Koegel, "Canciones del país," 178.
34. The wine merchant was O.G. Weyse. See Henry Winfred Splitter, "Music in Los Angeles," *Historical Society of Southern California Quarterly* 38 (December 1956): 324. See also Catherine Parsons Smith, "Inventing Tradition: Symphony and Opera in Progressive-Era Los Angeles," *Music and Culture in America, 1861-1918*, ed. Michael Saffle (New York and London: Garland Publishing, 1998), 305-306.
35. The opera consisted of three acts, with Act I in a "Forest Roadside in the Far West," Act II in an "Indian Encampment," and Act III in a "Mexican Camp." *The Mirror*, April 14, 1893, p. 9, Album No. 23, BC; *Los Angeles Times*, Saturday, April 15, 1893, p. 4.
36. Program [untitled], Los Angeles Theatre, October 14 and 16, 1897, Dobinson Collection, Los Angeles Public Library. I would like to thank Lance Bowling for providing me with information on this event. The Lombardi Company performed *La Bohème* to "an overflow audience" in 1899; Smith, "Inventing Tradition," 309.
37. Susan Naulty, notes, p. 1, Behymer Collection Reference Papers, Huntington Library.
38. Instrumentation was as follows: six first violins, seven second violins, three violas, two violincellos, three contrabass, one piccolo, two flutes, one oboe, three clarinets ("clarionettes"), two bassoons ("fagotti"), four horns, two cornets, three trombones, and timpani. *Bartlett's Musical and Home Journal* (September 1888), p. 9, Cambria Archives, San Pedro, Calif.
39. *The Mirror*, February 20, 1893, p. 9; *ibid.*, May 1, 1893, p. 3; *ibid.*, May 8, 1893, p. 3 and backpage, Album No. 23, BC. On Stamm, see Earnest, "An Historical Study," vol. 1: 623.
40. Program [untitled], Los Angeles Theatre, June 3, 1897, Album No. 51, f. 31, BC. The program listed the coming attractions the following week, but did not list the repertoire the orchestra would perform.
41. William Andrews Clark, Jr. founded the Los Angeles Philharmonic Orchestra in 1919, which was under the management of Lynden Behymer until 1922, when Caroline E. Smith (who was also Clark's personal representative) assumed control. Lynn Moody Hoffman, "Starlit Trails," Research Summary Report (unpublished manuscript, 1977), p. 5, Behymer Collection Reference

Papers. *Historical Society of Southern California*, Robert Stevenson, William Andrews Clark Jr. *Program of the Los Angeles Philharmonic Orchestra*, *Los Angeles Times*, 1919. *His Cultural Legacy. Papers read at a Clark Library Seminar, 7 November 1981*, by William E. Conway, Robert Stevenson (UCLA: William Andrews Clark Memorial Library, 1985), 31-52.

42. For an example of a church concert, see *Los Angeles Times*, Thursday, February 8, 1894, p. 6. Three organizations dedicated solely to serious music were the Apollo Club, Treble Clef Club, and Ellis Club. They also booked the Los Angeles Theatre for their concerts, usually featuring quartets or soloists. For example, the Apollo Club booked the theater on June 30, 1891; October 19, 1891; February 2, 1892; April 29, 1892, and June 30, 1892; the Treble Clef on April 1, 1891, and October 13, 1891; and the Ellis Club on June 4, 1891. Programs, Los Angeles Theatre, Album No. 26, BC.
43. *Los Angeles Advertiser*, Vol. 1, No. 3, March 1887.
44. *The Players*, November 13-16, 1895, Album No. 28, BC; *The Stage*, October 1, 1894, p. 3, Album No. 23, BC. The following prices were given for piano lessons: first, second, and third grade children could have twenty lessons for \$40, while children in the fourth, fifth, and sixth grades had to pay \$60 for twenty lessons. *The Mirror*, October 2, 1893, p. 2, Album No. 23, BC. For the dance academy: *The Mirror*, May 1, 1893, back cover, Album No. 23, BC.
45. Toll, *On With the Show!*, 267-72; Lawrence Levine, *Highbrow/Lowbrow: The Emergence of Cultural Hierarchy in America* (Cambridge, Mass.: Harvard University Press, 1988), 195-97.
46. Impresario Lynden Behymer outlined some of the problems he faced in "The Manager's Lot in the Southland. The Eternal Triangle of Artist, Public and Impresario," *Who's Who in Music and Dance in Southern California*, ed. Bruno David Ussher (Hollywood, Calif.: Bureau of Musical Research, 1933), 79-80.
47. *Los Angeles Times*, Tuesday, August 29, 1893, p. 4.
48. Professional music criticism in Los Angeles began to appear regularly in music journals by the turn of the century, but considerably earlier in San Francisco; see Michael Saffle, "Promoting the Local Product: Reflections on the California Musical Press, 1874-1914," *Western Cultural Studies*, 1, 366 (1991), 367. Michael Saffle (New York and London: Garland Publishing, 1998), 167-91; and Burton Lewis Karson, "Music Criticism in Los Angeles 1895-1910" (D.M.A. diss., University of Southern California, 1991).

Stevens, "The Week the Experts Came to Town," pp. 40-53.

1. For further amplification of the city's urban transformation, Lissner's early life, and the organizations he created, see Mark H. Stevens, "Meyer Lissner and the Politics of Progressive Municipal Reform in the City of Los Angeles, 1906-1913" (Ph.D. diss., The Claremont Graduate School, 1995), especially chapters 1-6. Also, see Spencer C. Olin, *California Politics, 1846-1920: The Emerging Corporate State* (San Francisco: Boyd & Fraser Publishing Company, 1981), 56; James P. Kraft, "The Fall of Job Harriman's Socialist Party: Violence, Gender, and Politics in Los Angeles, 1911," *Southern California Quarterly* 70, No. 1 (Spring 1988):43-68; Herbert Shapiro, "The McNamara Case: A Window on Class Antagonism in the Progressive Era," *Southern California Quarterly* 70, No. 1 (Spring 1988):61-95; William J. Deverell, "The Los Angeles 'Free Harbor' Fight," *California History*, 70 (Spring 1991):13-29, later reprised as a chapter in his *Railroad Crossing: Californians and the Railroad, 1850-1910* (Berkeley, University of California Press, 1994), 2-3, 94-95, and 109; and John M. Allswang, "The Origins of Direct Democracy in Los Angeles and California: The Development of An Issue and Its Relationship to Progressivism," *Southern California Quarterly* 78, No.2 (Summer 1996):175-198.
- Lissner's comments on the Non-Partisan "inner circle" are particularly insightful. Earl was "a remarkably able man, especially in financial matters, having a broad grasp of affairs, a very strong will, and being a great master of details." "Dickson and I 'fought, bled and died together' in our fights against the Southern Pacific machine in this city, and we are as close politically as two individuals can be. . . ." Gibbons "is a very able and brilliant man, but not anything like as strong as Earl along business and financial lines . . . [and had] given the reform movement in Los Angeles City and County splendid support." Meyer Lissner to Hon. Hiram W. Johnson, February 15, 1911, 1-2, Edward Augustus Dickson Papers, Department of Special Collections, Research Library, University of California, Los Angeles, hereafter referred to as the Dickson Papers; M. Lissner to Hon. Frank H. Hitchcock, January 20, 1912, Dickson Papers; Janice Jacques, "The Political Reform Movement in Los Angeles, 1900-1909 (M.A. Thesis, The Claremont Graduate School, 1948), 51, and Fred W. Viehe, "The First Recall: Los Angeles Urban Reform or Machine Politics?" *Southern California Quarterly* 70, No. 1 (Spring 1988):21.
2. For a thorough treatment of the history and endeavors of the National Municipal League, see Frank Mann Stewart, *A Half Century of Municipal Reform: The History of the National Municipal League* (Berkeley: University of California Press, 1950), 1-200.
3. Pamphlet-Handbook, "The Municipal League of Los Angeles," 1912, 1-4, Meyer Lissner Papers, Stanford University, hereafter referred to as the Lissner Papers; Meyer Lissner to S. B. Silverwood, Esq., September 10, 1908; and Meyer Lissner to A. F. Rosenheim, September 10, 1908, Lissner Papers.
4. Meyer Lissner to Hon. Frank K. Mott, August 29, 1908; Meyer Lissner to Francis J. Heney, August 31, 1908; Meyer Lissner to James D. Phelan, September 5, 1908; Meyer Lissner to J. O. Koepfli, Esq., et al., September 10, 1908; and Meyer Lissner to Chester Rowell, September 16, 1908, Lissner Papers.
5. Clinton Rogers Woodruff to Meyer Lissner, November 15, 1910; and Meyer Lissner to Albert Bushnell Hart, Esq., March 7, 1911, Lissner Papers.
6. Meyer Lissner to Hon. George Alexander, March 20, 1911, 1, Lissner Papers.
7. Ibid., 1-2.
8. Executive Committee of the Municipal League of Los Angeles Resolution, March 28, 1911; Meyer Lissner to S. C. Graham, March 30, 1911; Meyer Lissner to Rev. Charles N. Lathrop, April 1, 1911; Meyer Lissner to Hon. H. Stanley Benedict, April 3, 1911; Meyer Lissner to Frank Wiggins, April 3, 1911; Meyer Lissner to Frank G. Henderson, April 4, 1911; Meyer Lissner to Hon. Hiram W. Johnson, April 4, 1911; Meyer Lissner to Dr. E. C. Moore, April 4, 1911; Meyer Lissner to A. F. Rosenheim, April 4, 1911; Meyer Lissner to G. W. Randall, April 5, 1911; Meyer Lissner to Frank J. Symmes, April 6, 1911; Los Angeles Chamber of Commerce to National Municipal League, April 6, 1911; Meyer Lissner to Hon. C. H. Randall, April 7, 1911; and Meyer Lissner to G. W. Randall, Esq., June 7, 1911, Lissner Papers.
9. Ibid.
10. Clinton Rogers Woodruff to M. Lissner, January 24, 1908; Clinton Rogers Woodruff to the Members of the National Municipal League, April 9, 1908; Meyer Lissner to Clinton Rogers Woodruff, September 29, 1911, Meyer Lissner to E. O. Edgerton and Charles D. Willard, September 29, 1911; and Meyer Lissner to Clinton Rogers Woodruff, November 23, 1911, 2-3, Lissner Papers.
11. Meyer Lissner to Clinton Rogers Woodruff, November 15, 1911, Lissner Papers.
12. Meyer Lissner to San Francisco Convention League, November 10, 1911, Lissner Papers.
13. Ibid.
14. Invitation from William Dudley Foulke, et al., to All Members and Supporters of the National Municipal League, n.d.; and National Municipal League Membership Card, n.d., Lissner Papers.
15. E. D. Chappell to Meyer Lissner, January 1912, and Meyer Lissner to the National Municipal League, January 31, 1912, Lissner Papers.
16. For amplification of the composition of the subordinate convention committees, see National Municipal League Subordinating Committee, Los Angeles Committee's Membership Lists, n.d.; Charles Dwight Willard to Meyer Lissner, May 1, 1912, Lissner Papers; and "Municipal League Convention Today," *Los Angeles Examiner* (July 8, 1912), 3.
17. Woodruff to League Executive Council Members, February 14, 1912, Lissner Papers. For amplification of league guidelines represented papers, see Clinton Rogers Woodruff to Mrs. Charles F. Edson, May 1, 1912, Katherine Philips Edson Papers, Department of Special Collections, Research Library, University of California, Los Angeles, hereafter referred to as the Edson Papers, 1-2.
18. Lissner and Woodruff exchanged dozens of letters concerning the convention exhibit between late March and early June, 1912, including Clinton Rogers Woodruff to Meyer Lissner, Esq., March 30, 1912; Meyer Lissner to Clinton Rogers Woodruff, April 1, 1912; Clinton Rogers Woodruff to Meyer Lissner, Esq., May 3, 1912, 1-2; Meyer Lissner to Clinton Rogers Woodruff, May 4, 1912; M. Lissner to Clinton Rogers Woodruff, June 3, 1912; and Clinton Rogers Woodruff to Meyer Lissner, Esq., June 5, 1912, Lissner Papers.
19. Meyer Lissner to Myron Hunt, June 7, 1912; Meyer Lissner to Hon. Board of Supervisors of Los Angeles, June 7, 1912; "Municipal League Convention Today," *Los Angeles Examiner* (July 8, 1912), 4; Meyer Lissner "Honesty Plus Efficiency," An Address Presented Before the National Municipal League, July 9, 1912, reprinted in the *California Outlook* 12 (Saturday, July 20, 1912):10; and Meyer Lissner to Hon. R. W. Pridham, et al., December 4, 1912, 1-2, Lissner Papers.
20. "Political Bug Finds Bars Up," *Los Angeles Times* (July 8, 1912), pt. 2, p. 1; "Municipal League Convention Today," *Los Angeles Examiner*, (July 8, 1912), 3; and "Municipal Exporting League Head's Idea," *Los Angeles Times* (July 9, 1912), pt. 2, pp. 1 and 3.
21. Ibid., p. 1.
22. "Thousands Watch Municipal Parade To Be Demonstration Of Los Angeles' Growth," *Los Angeles Examiner* (July 8, 1912), 3; "Parade Of City Employees; Opening Feature Of Great Meet," *Los Angeles Record* (July 8, 1912), 1 and 9; "Program Of The Day," *Los Angeles Herald* (July 8, 1912), 1; "4000 City Employees In Five Mile Parade," *Los Angeles Herald* (July 8, 1912), 1 and 4; John A. Gray, et al., "National Municipal League Opens With Display," *Los Angeles Examiner*

- July 9, 1912), 17; and "Municipality Displays Activities; Parade May Be Held Annually," *Los Angeles Express* (July 8, 1912), 1. Ibid., and "Thousands Watch. . .," *Los Angeles Examiner* (July 8, 1912), 1.
- For amplification of the roster of noted delegates present, see "Story Told In Photos; Models," *Los Angeles Times* (July 8, 1912), 1. The author gratefully acknowledges the assistance of the Los Angeles Public Library's History reference staff in locating the Hotel Alexandria's address.
- The author gratefully acknowledges the assistance of the Los Angeles Public Library's History reference staff in locating Temple Auditorium's address. "Municipal League Convention Today," *Los Angeles Examiner* (July 8, 1912), 3.
- "Story Told. . .," *Los Angeles Times* (July 9, 1912), pt. 2, p. 3.
- Ibid.
- "National Municipal League. . .," *Los Angeles Examiner* (July 9, 1912), 17.
- "Municipal League. . .," *Los Angeles Examiner* (July 8, 1912), 3; "Program Of The Day," *Los Angeles Times* (July 8, 1912), pt. 2, p. 1; "Municipal Experting. . .," *Los Angeles Times* (July 9, 1912), pt. 2, p. 1; and "National Municipal League. . .," *Los Angeles Herald* (July 8, 1912), 4.
- "Municipal League. . .," *Los Angeles Examiner* (July 8, 1912), 3; and "Parade. . .," *Los Angeles Record* (July 8, 1912), 9.
- "Municipal Experting. . .," *Los Angeles Times* (July 9, 1912), pt. 2, pp. 1-3.
- Ibid.
- Ibid.
- "Parade. . .," *Los Angeles Record* (July 8, 1912), 9 and "President Foulke Makes Plea For Reform," *Los Angeles Record* (July 9, 1912), 9.
- Ibid.
- Ibid.
- "Parade. . .," *Los Angeles Record* (July 8, 1912), 9.
8. "Programme For. . .," *Los Angeles Times* (July 9, 1912), pt. 2, p. 1; "Woman Plunges From Platform," *Los Angeles Times* (July 10, 1912), pt. 2, pp. 1 and 7; Meyer Lissner, "Honesty Plus. . .," *California Outlook* (July 20, 1912):9-10; "We Have Progressed. . .," Says Meyer Lissner In Convention Paper," *Los Angeles Express* (July 9, 1912), 4; "Municipal League Elects Officers. . .," *Los Angeles Record* (July 9, 1912), 1 and 9; "Municipal League Lauds California's System Of Taxation," *Los Angeles Record* (July 10, 1912), 1; "Civic Experts Pick Flaws In City's Proposed Charter; Noted Authorities Speak 'At Second Day's Sessions,'" *Los Angeles Examiner* (July 10, 1912) 8, and "Boss Of The Political Ring Is Doomed," *Los Angeles Herald* (July 11, 1912) 9.
39. "Political Honesty Public Service Great Need," *Los Angeles Express* (April 17, 1912),

Lissner Papers; Lissner, "Honesty Plus. . .," *California Outlook* (July 20, 1912): 9; and "We Have Progressed. . .," *Los Angeles Express* (July 9, 1912), 4.

40. Lissner, "Honesty Plus. . .," *California Outlook* (July 20, 1912): 9-10; "Municipal League Lauds. . .," *Los Angeles Record* (July 10, 1912), 1; and "Civic Experts. . .," *Los Angeles Examiner* (July 10, 1912), 8.
41. Lissner, "Honesty Plus. . .," *California Outlook* (July 20, 1912): 10.
42. Ibid; Kraft, 43-68; and Shapiro, 61-95.
43. Ibid.
44. "Municipal League Elects. . .," *Los Angeles Record* (July 9, 1912), 1; and "Municipalities League Honors. . .," *Los Angeles Herald* (July 9, 1912), 12.
45. The author gratefully acknowledges the assistance of the Los Angeles Public Library's History reference staff in establishing the location of Choral Hall. Ibid. and "Programme For. . .," *Los Angeles Times* (July 9, 1912), pt. 2, p. 1.
46. "Citizens Urged To Attend Municipal League Sessions," *Los Angeles Express* (July 10, 1912), 5.
47. "Boss Of. . .," *Los Angeles Herald* (July 11, 1912), 1, 9.
48. "Municipal League Lauds. . .," *Los Angeles Record* (July 10, 1912), 1; "League Holds Discussion, Control Of Utilities," *Los Angeles Express* (July 10, 1912), 1; and "Taxation Theme Today Of Municipal Leaders," *Los Angeles Herald* (July 10, 1912), 1 and 8.
49. "State Board May Seek To Set Rates On Owens Water," *Los Angeles Examiner* (July 11, 1912), 1; "Taxation Theme Today. . .," *Los Angeles Herald* (July 10, 1912), 8; and "League Holds Discussion. . .," *Los Angeles Express* (July 10, 1912), 1, 4, and 5.
50. "Political Bug. . .," *Los Angeles Times* (July 8, 1912), 6; "Story Told. . .," *Los Angeles Times* (July 9, 1912), pt. 2, p. 3; "Programme For Today," *Los Angeles Times* (July 9, 1912), pt. 2, p. 1; "Municipalities League Honors Mrs. C. F. Edson," *Los Angeles Herald* (July 9, 1912), 12; "Californians Honored By Municipal League," *Los Angeles Express* (July 9, 1912), 1; "Municipal League Elects Officers; Hears Papers Read By Civic Experts," *Los Angeles Record* (July 9, 1912), 1 and 9; "Woman Plunges From Platform," *Los Angeles Times* (July 10, 1912), pt. 2, p. 7; "Taxation Theme Today. . .," *Los Angeles Herald* (July 10, 1912), 8; "State Board. . .," *Los Angeles Examiner* (July 11, 1912), 2; Clinton Rogers Woodward to Meyer Lissner, July 16, 1912; Meyer Lissner to Reynold E. Blight, July 17, 1912, Lissner Papers; and Mrs. Charles Farwell Edson, "The Actual Operation of Woman's Suffrage in the Pacific Coast Cities," *National Municipal Review* 1 (September, 1912):620-621.
51. Jane Addams had been elected a league Vice President the previous year, establish-

- ing her standing as an important force in the council. Ibid.
- Clinton Rogers Woodruff to Mrs. Charles Farwell Edson, June 27, 1912; M. Lissner to Mrs. Charles Farwell Edson, July 11, 1912, Edson Papers; "Boss Of. . .," *Los Angeles Herald* (July 11, 1912), 1 and 9; and "Leaguers Answer Questions About Model Charter," *Los Angeles Record* (July 12, 1912), 1 and 11.
52. Meyer Lissner's Secretary to Clinton Rogers Woodruff, August 6, 1918, 1-3, Lissner Papers.
53. Meyer Lissner to Robert Fuller, January 16, 1908; Meyer Lissner to Clinton Rogers Woodruff, January 23, 1908; and R. E. Crandall to M. Lissner, August 6, 1908, Lissner Papers.
54. Meyer Lissner to Edward Dickson, January 7, 1909; Meyer Lissner to Hon. Robert M. LaFollette, July 25, 1910; Meyer Lissner to A. B. Nye, December 19, 1910; Meyer Lissner to John D. MacVicar, October 6, 1911; and Meyer Lissner to F. E. Chadwick, U.S.N., November 13, 1911, 1-2, Lissner Papers.
55. "A New Charter Impracticable," *Pacific Outlook* (volume unknown)(Saturday, August 13, 1910):(pages unknown), Lissner Papers.
56. Meyer Lissner to Delos F. Wilcox, November 22, 1910; and Meyer Lissner to J. B. Eastman, November 29, 1910, Lissner Papers.
57. Meyer Lissner to Hon. A. B. Nye, December 14, 1910, 1-2; and Meyer Lissner to Hon. A. B. Nye, December 17, 1910, 1-2, Lissner Papers.
58. Meyer Lissner to University of Wisconsin, Madison, July 7, 1910; Meyer Lissner to Frederick Law Olmsted, December 23, 1911; G. Gordon Whitnall, "Abstract of Methods of Appointing and Make-up of City Planning Commission in Different Parts of the United States," n.d.; Meyer Lissner to E. A. Filene, January 25, 1912; and Meyer Lissner to Francis A. Eastman, February 24, 1912, Lissner Papers.
59. "Resolution of the Los Angeles City Council, Authorizing a Revision of the City Charter," *Council Records, Proceedings of February 27, 1912*, 87-412, Lissner Papers.
60. Ibid.
61. "Take First Step For Commission Government Tomorrow," *Los Angeles Herald* (March 12, 1912); "Coats Off For Model Charter," *Los Angeles Times* (March 14, 1912); "Haynes Named To Head Charter Commission," *Los Angeles Express* (March 14, 1912); "Charter Revision Board Organizes," *Los Angeles Examiner* (March 14, 1912); "Charter Revision Board Organizes; Dr. J. R. Haynes Chosen Chairman," *Los Angeles Tribune* (March 14, 1912); Meyer Lissner to Hon. John D. Works, March 19, 1912, 1; "Revisionists Plan Short, Simple Charter," *Los Angeles Herald* (March 21, 1912); "Six Provisions For Charter De-

- cided," *Los Angeles Express* (March 21, 1912); "City Charter Form Determined," *Los Angeles Examiner* (March 21, 1912); Clinton Rogers Woodruff, "Charter Revision: Efforts to Improve Municipal Government," *Citizens' Bulletin* 10 (June 22, 1912):1; Meyer Lissner to Clinton Rogers Woodruff, April 18, 1912; "Tells Of Commission Plan," *Pasadena News* (April 19, 1912), all in Lissner Papers; E. A. Wolcott to Dr. John Randolph Haynes, May 29, 1912, pp. 1-4, John Randolph Haynes Collection, Department of Special Collections, Research Library, University of California, Los Angeles, hereafter cited as the Haynes Papers; and Bradley R. Rice, "The Galveston Plan of City Government by Commission: The Birth of a Progressive Idea," *Southwestern Historical Quarterly* 78 (1975):365-408. For further amplification of Progressive motives for streamlining and centralizing administrative authority in Los Angeles, focusing on a government undergirded by experts and scientific management, see John J. Hamilton, "Dividing and Delegating Authority," *California Outlook* 12 (Saturday, May 18, 1912):10-11; Charles D. Willard, "Los Angeles Acts Up," *California Outlook* 13 (Saturday, July 6, 1912):3-4; and Martin J. Schiesl, "Progressive Reform In Los Angeles Under Mayor Alexander, 1909-1913" *California Historical Quarterly* 54 (Spring, 1975):49.
62. "Take First Step. . .," *Los Angeles Herald*, (March 12, 1912); and Lissner to Works, March 19, 1912, 1-2, Lissner Papers.
 63. The hundreds of submitted sub-committee reports prior to May 28 were too numerous to mention individually; they can be found in the "Charter Revision-1912" Folder of the Lissner Papers. John J. Hamilton, "Synopsis of the Work of the Los Angeles Charter Revision Commission-prior to May 28, 1912, the Date of the Election of the Board of Freeholders," May 24, 1912, 1-2; and John J. Hamilton to Meyer Lissner, March 27, 1912, 1-2, Lissner Papers.
 64. For further amplification of the proposed new charter's twenty-four points, see Clinton Rogers Woodruff to Meyer Lissner, Esq., April 6, 1912; Hamilton, *Synopsis*, May 24, 1912, 2-4; and Commission Government Diagram, n.d., Lissner Papers.
 65. For further amplification of Lissner's and the other minority reports, see Hamilton to Lissner, March 27, 1912, 1-2; John J. Hamilton to Lewis R. Works, et al., April 19, 1912, 1-4; "Framers Of Charter Fail To Agree," *Los Angeles Tribune* (April 11, 1912), 1; "Six Thousand Salary For Commissioners," *Los Angeles Times* (April 11, 1912); "Would Fix Salaries At \$6000 A Year," *Los Angeles Record* (April 11, 1912); "Would Fix Salaries At \$6000 A Year," *Los Angeles Express* (April 11, 1912); "Lively Debates Mark Charter Revisions," *Los Angeles Examiner* (April 11, 1912); "Four Commission Plan Suggested," *Los Angeles Herald* (April 11, 1912); and "Lissner Favors Plan," *Los Angeles Times* (April 14, 1912), Lissner Papers.
 66. Again, hundreds of documents too numerous to list here were submitted to the Board of Freeholders. For further enquiry, see note 64, above.
 67. "Charter Work Is Started Formally," *Los Angeles Express* (May 30, 1912); and "Consolidation Of Offices Proposed," *Los Angeles Express* (June 1, 1912), Lissner Papers.
 68. Clinton Rogers Woodruff to Meyer Lissner, Esq., May 27, 1912; M. Lissner to Clinton Rogers Woodruff, May 30, 1912; M. Lissner to Clinton Rogers Woodruff, June 1, 1912, Lissner Papers; and "Boss Of. . .," *Los Angeles Herald* (July 11, 1912), 9.
 69. Gray, et al., "National Municipal League. . .," *Los Angeles Examiner* (July 9, 1912), 17-18.
 70. *Ibid.*
 71. "Leaguers Answer Questions. . .," *Los Angeles Record* (July 12, 1912), 11; and "Civil Service Plan Urged For Charter," *Los Angeles Examiner* (July 12, 1912), 2.
 72. For further amplification of the twenty-seven questions the Board of Freeholders proposed, see *ibid.*; "Leaguers Answer Questions. . .," *Los Angeles Record* (July 12, 1912), 11; and "Questions Submitted to the National Municipal League on Behalf of the Los Angeles Board of Freeholders," July 12, 1912, Lissner Papers.
 73. John A. Gray, "City Charter Is Near Perfect Experts Agree," *Los Angeles Examiner* (July 13, 1912), 5; "Civil Service Plan. . .," *Los Angeles Examiner* (July 12, 1912), 2; "Leaguers Answer Questions. . .," *Los Angeles Record* (July 12, 1912) 11; "Municipal League Leaders Discuss Proposed Charter," *Los Angeles Record* (July 12, 1912), 11; "Civil Experts Dissect Los Angeles Charter," *Los Angeles Express* (July 12, 1912), 1-2; and "Favor City Manager-Charter Is Analyzed; Experts State Views," *Los Angeles Herald* (July 12, 1912), 1 and 4.
 74. John J. Hamilton, "The Discussion of the Los Angeles City Charter," *National Municipal Review* 1 (September 1912):653.
 75. *Ibid.*, 653-54.
 76. Hamilton, *Synopsis*, May 24, 1912, 2-4; Woodruff to Lissner, April 6, 1912; Commission Government Diagram, n.d.; Meyer Lissner to Chester H. Rowell, July 19, 1912, 1-2; "Charter Of the City of Los Angeles, Prepared and Proposed by a Board of Freeholders elected May 28, 1912," October 3, 1912, 1-2; "Freeholders Sign New Charter," *Los Angeles Tribune* (October 4, 1912), 1-2; John J. Hamilton, "Proposed Charter for Los Angeles," *California Outlook* 13 (Saturday, October 12, 1912):11, 16; "Citizens Arm Against 'Eddie' City Charter," *Los Angeles Times* (November 21, 1912), 1, "Rips Cogs Out Of Machine's Charter," *Los Angeles Times* (November 22, 1912); "Twelve Reasons Why The Charter Should Be Defeated," *Los Angeles Times* (November 24, 1912), 2, p. 1; Gesner Williams, "Great Danger Taxpayers In Proposed City Charter," *Los Angeles Times* (November 24, 1912); "Charter As Drawn, Pernicious, Dangerous," *Los Angeles Examiner* (November 24, 1912); Editorial, "The Villainous Charter," *Los Angeles Times* (November 25, 1912); Charles Edwin Locke, "Power Lies With People Under New Plan," *Los Angeles Tribune* (November 27, 1912), 1; "Los Angeles Makes TV Sweeping Charters In Great Municipal Reform," *Los Angeles Express* (November 28, 1912), 1; "Charter Explained In Brief For Voters," *Los Angeles Tribune* (November 28, 1912); Citizens Charter Committee of Los Angeles Pamphlet, "Vote for the New Charter," n.d.; and Pamphlet, "To All Voter Jokes In New City Charter," n.d., Lissner Papers. See also Tom Sitton, *John Randolph Haynes, California Progressive* (Stanford, Calif. Stanford University Press, 1992), 110-112; and Tom Sitton, "Proportional Representation and the Decline of Progressive Reform in Los Angeles," *Southern California Quarterly* 77, No. 4 (Winter 1995):351-357.
 77. Gray, "City Charter. . .," *Los Angeles Examiner* (July 13, 1912), 5; Editorial, "Students City Municipal Life," *Los Angeles Record* (July 13, 1912), 4; Clinton Rogers Woodruff to Meyer Lissner, Esq., July 28, 1912; and Meyer Lissner to Clinton Rogers Woodruff, August 21, 1912, Lissner Papers.

Liberti, "Women's Dipsea Hikes," pp 54-65.

The author wishes to thank Mark Reese and Barry Spitz for their helpful suggestions at the beginning stages of this project.

1. Dan Giesin, "The Extra Mile: At 61 Larkspur Woman Discovers Life in the Fast Lane," *San Francisco Chronicle*, February 3, 2002, E-5.
2. One of the other unique features about the Dipsea is its handicapping system or staggered start system. Since 1969 handicaps have been based on both age and sex. Prior to 1969, starts were based on age and perceived ability. In recent years some runners have had as much as a twenty-minute head start. While this system allows entrants a more balanced chance to cross the finish line first, it also makes it possible for 1,500 individuals to participate in the race since the narrowness of the trail makes a single start dangerous to runners. See Barry Spitz, *Dipsea: The Greatest Race* (San Anselmo, Calif.: Potrero Meadow Publishing, 1993), 207-209. According to Spitz, the name

- "Dipsea" was coined by Progressive Republican William Kent, who donated to the federal government the land containing the redwood grove that became Muir Woods National Monument, and who introduced the bill in the House of Representatives that created the National Park Service. Spitz believes that Kent created the word "Dipsea" based on the use of the word "deepsea" in Rudyard Kipling's 1892 poem "The Last Chantey." Phone conversation with author, May 16, 2002.
- George James, "Will Woman Athlete Eclipse Man?" *The Olympian* (April 1918): 20.
- Ibid., 20.
- George James, quoted in John F. Connolly, Martin Hartmann Victor In Gruelling Dipsea Contest," *The Olympian* (May 1918): 11, 26.
- Mark M. Reese, *The Dipsea Race: The History of America's Second Oldest Footrace, 1905-1979* (Sacramento, Calif.: Mark M. Reese, 1979), 230. I have spoken with Reese, who recalls having several conversations with individuals associated with the Dipsea during the women's hikes. His conclusions about the discontinuation of the women's Dipsea are based on those conversations. "No Women Athletes for American Team," *The New York Times*, March 31, 1914, 9; quoted in Paula Dee Welch, "The Emergence of American Women in the Summer Olympic Games, 1900-1972." (Ed.D. diss., University of North Carolina at Greensboro, 1975), 19.
- Dudley A. Sargent, "Are Athletics Making Girls Masculine? A Practical Answer To a Question Every Girl Asks," *Ladies' Home Journal* 29 (March 1912): 72.
- Louise Mead Tricard, *American Women's Track and Field: A History, 1895 Through 1980* (Jefferson, N.C.: McFarland & Company, 1996), 126-51.
1. Susan Cahn, *Coming on Strong: Gender and Sexuality in Twentieth-Century Women's Sport* (Cambridge: Harvard University Press, 1994), 57-59.
 2. Ibid., 35-36.
 3. Alma Reed, "Call's Hike Established As Permanent Yearly Event," *San Francisco Call*, June 9, 1919, 13.
 4. William Chafe, *The Paradox of Change: American Women in the 20th Century* (New York: Oxford University Press, 1991), 99-118; Dorothy M. Brown, *Setting a Course: American Women in the 1920s* (Boston: Twayne Publishers, 1987); Angela J. Latham, *Posing a Threat: Flappers, Chorus Girls, and Other Brazen Performers of the American 1920s* (Hanover, Mass.: Wesleyan University Press, 2000).
 5. Lincoln Fairley, *Mount Tamalpais: A History* (San Francisco: Scottwall Associates, 1987), 79.
 6. Shayer Oswin Lancelot Robinson, interviewed October 1979, Mill Valley, Calif., Oral History Project of Mill Valley, Mill Valley Public Library, Box "P-S," p. 7.
 16. "Laws to Restrain Frequenters of Trails Are Announced," *Mill Valley Record*, June 21, 1919, 1.
 17. "Residents on Trails Demand Protection from Marauders," *Mill Valley Record*, May 17, 1919, 1.
 18. Mrs. John George (nee Virginia Glahn Cameron), interviewed August 22, 1979, Mill Valley, Calif., Oral History Project of Mill Valley, Mill Valley Public Library, Box "G-H," p. 23.
 19. Mr. George R. Pimlott, interviewed March 25, 1975, Mill Valley, Calif., Oral History Project of Mill Valley, Mill Valley Public Library, Box "P-S," p. 8.
 20. Mrs. C. Irvine Dowd (nee Margaret Wosser), interviewed October 1968, Mill Valley, Calif., Oral History Project of Mill Valley, Mill Valley Public Library, Box "D-E," p. 9.
 21. Benjamin G. Rader, *American Sports: From the Age of Folk Games to the Age of Televised Sports* (Upper Saddle River, N. J.: Prentice Hall, 1999), 127; Latham, *Posing a Threat*, 65-97.
 22. Latham, *Posing a Threat*, 48-54.
 23. See for example: "Why Not Legislation on Men's Legs?" *San Francisco Chronicle*, July 3, 1921, E8; Gertrude Jane, "A Wallop For George," *San Francisco Bulletin*, April 5, 1923, 20; Bernard Einstein, "He's For Co-Eds, Rouged Lips and All," *San Francisco Bulletin*, May 1, 1923; V.H.B., "An Authority on Girls," *San Francisco Bulletin*, April 7, 1923, 22.
 24. Dan Derrling, "Daring Dan Derrling Denounces Flapper," *San Francisco Bulletin*, May 4, 1923, 20; Perry MacGill, "What's The Use?" *San Francisco Bulletin*, March 23, 1923, 20; George Winters, "Oxford Versus Hymen," *San Francisco Bulletin*, March 14, 1923, 16; George Winters, "Wow! He Has Comeback," *San Francisco Bulletin*, March 22, 1923, 16; Sweet Forty-Five, "The Flapper's Dress," *San Francisco Bulletin*, August 24, 1922, 16.
 25. A Co-ed, "Georgie's Old Fashioned," *San Francisco Bulletin*, March 16, 1923, 20.
 26. Liberal, "Approves Short Skirts," *San Francisco Bulletin*, September 11, 1922, 12.
 27. M.D.F., "He Objects to Trousers," *San Francisco Bulletin*, February 21, 1923, 16.
 28. Gordon McWhirter, "Immodest! No Sir!" *San Francisco Bulletin*, February 28, 1923, 20.
 29. Ruth Stacker, "Swimming Star First To Cross The Line," *San Francisco Call*, April 22, 1918, 8.
 30. Frank P. Noon, "Director James Issues Final Instructions to Call's Dipsea Hikers," *San Francisco Call*, May 7, 1920, 16.
 31. The women's hikes from 1918-1922 generally drew larger crowds and participants than the "regular" Dipsea, the men's event.
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THE GHIRARDELLI STORY

by Sidney Lawrence

People love chocolate, but how many people know that the country's second oldest chocolate company is Ghirardelli? Founded in June 1852, it has been operating for more than one hundred and fifty years now; only Baker's Chocolate, founded in 1780 in Massachusetts, is older.¹ And Ghirardelli Square in San Francisco, the company's factory from 1894 to 1964, is the granddaddy of industrial sites adapted to become public attractions, now common to many American cities.² The fifteen-foot-high letters on the chocolate factory's towered brick "castle" are as local a landmark to San Francisco as the TransAmerica Pyramid or Coit Tower. Ghirardelli also stands for chocolate with the potential for intense pleasure that rivals other brand names like Mars, Hershey's, or Godiva. Few people do not recognize the name.

But just be sure to say Ghirardelli with a hard G as in ghost or spaghetti, and leave the J sound to gin and gypsy. My grandfather, a member of the chocolate-making family and the company's second-to-last family president, said it the right way. This lively individual, Alfred Ghirardelli (1884–1956), also realized that there was a fascinating story to be told in the origins and evolution of this Italian-American clan and its business. In 1945, anticipating the Gold Rush's centennial a few years later, he commissioned a succinct scholarly history of Domingo Ghirardelli's company, which pinned down important facts about the Italian founder's life and times as a pioneer businessman.³ Some four decades later, Alfred's daughter Polly Ghirardelli Lawrence (1921–1997), my mother, resumed the effort by combining archival research and personal reminiscences in a volume of interviews (shared with two of her cousins) published by the Bancroft Library's Regional Oral History Office in 1985.⁴

The present writer, researching a 1999–2000 family exhibition for the Museo Italo-Americano in San Francisco,⁵ continued this work and found numerous untapped archives, collections, and memorabilia to shed light on the Ghirardelli past.⁶ The Ghirardelli story represents a rich, multilayered slice of California history, so let us now funnel backward to see how.

ITALY AFTER NAPOLEON

The story begins in the northern Italian coastal town of Rapallo, the busiest and largest of several settlements south of Genoa along the Ligurian Riviera—an idyllic region for an only son of a modestly successful merchant to be raised and learn a trade, except for the political realities. In 1815, two years before the founder of San Francisco's chocolate company was born there, the Congress of Vienna, as part of its liquidation of Napoleon's European Empire, ceded the centuries-old Republic of Genoa to the neighboring Kingdom of Piedmont-Sardinia. The Genoese chafed at the loss of independence and rule by a monarchy "equally imbecile as it is corrupt."⁷ They reacted by staging uprisings in 1831 and again in 1834. This last one, a major city-wide revolt, was mercilessly quashed.

At that time, Domenico Ghirardelli was a teenage apprentice at Romanengo's, a fancy confectionary shop in Genoa still in business today,⁸ learning how to prepare and sell sugar loaves, candies, and sugar-sweetened chocolate paste to be diluted in water to create a hot "comfort" beverage and stimulant. But as Ghirardelli readied himself for an independent life, the region remained politically volatile, so with the blessing and financial help of his father,⁹ he set out for the New World.



The Ghirardelli family in Oakland, around 1862. Domenico Ghirardelli, a young confectioner, left Italy in 1837 and settled for a time in Lima, Peru, where he changed his name to the Hispanic "Domingo." Like thousands of other Europeans, Ghirardelli could not resist the lure of the Gold Rush and arrived in San Francisco in February 1849. Left to right: Dominga, Elvira, Carmen, Angela, Virginia, Cesare, Domingo, Louis, and Joseph. The eldest son, Domingo, Jr., was at school in Italy; youngest son Eugene had not yet been born. *Collection of Barbara Baker Nielsen.*

THE PREFERRED AMERICAS

In this period, North America was mostly the destination of wayward, ambitious, or poor Protestants, but Italians went to South America, where a compatible Latin culture awaited them. In 1837 Ghirardelli, aged twenty and newly married to Elisabetta "Bettina" Corsini, sailed to Montevideo,

Uruguay. Ghirardelli found work in a coffee and spice shop there, but perhaps because of instability created by Uruguay's border disputes,¹⁰ Montevideo turned out to be only a temporary home for the young confectioner. In 1838, Ghirardelli and his wife took what must have been a treacherous sea voyage around Cape Horn to Callao, Peru, heading nine miles inland to the great metropolis, Lima.

Italian artisans and gold masters had lived in Lima since the first Spanish colonial days in the sixteenth century, helping embellish the Baroque metropolis. When the Ghirardelli couple arrived, the city was economically flush from worldwide exports of guano, the profitable bird-dropping fertilizer, gathered from islands off the coast.¹¹ Hispanicizing his first name to Domingo, Ghirardelli set up a confectionary shop on the block-long Calle de los Mercaderes (Street of the Merchants), the city's main shopping artery just off the central plaza dominated by the city's cathedral, near such attractions as an Italian Lyric Opera.¹² There he made and sold a range of goods following the Romanengo's model, with chocolate a specialty. Ghirardelli's home life was jolted by the death of his Italian wife Bettina in 1846, but the next year he married Spanish-Peruvian widow Carmen Alvarado Martin, herself with an infant, and started a family.¹³

Ghirardelli seemed ready to set down permanent roots in Peru, but fate intervened. The restless Pennsylvanian James Lick (1796–1876), later of San Francisco hotel, observatory, and high school fame, operated a piano and cabinetmaking shop next door to Ghirardelli's confectionary, and the two Lima businessmen became fast friends.¹⁴ In 1846–47, Lick returned to his homeland to participate in the western expansion. He sold his business and, carrying six hundred pounds of Ghirardelli's chocolate to turn a profit (or so the legend goes), set sail for San Francisco. Lick immediately began buying up land, and with the news of gold's discovery in January 1848, sent word to Ghirardelli to come right away. The Callao newspapers, meanwhile, published the first foreign reports of California gold,¹⁵ so for Ghirardelli, the decision to sail north, despite the disruption to the life he had created for himself and his Italo-Peruvian family, was irresistible.

GOLD RUSH ITALIAN

History's snapshot of the Gold Rush city—a forest of masts, ramshackle buildings, lawlessness—was just coming into focus as Ghirardelli sailed into San Francisco harbor on the Peruvian bark *Mazeppa* on February 24, 1849, a few days before the first American ship arrived from the East Coast. The Italian found a growing population of Americans, Cana-

dians, and Mexicans who had crossed the border from South Americans from earlier ships, and Italians, like himself, one-third of whom also re-emigrated from points south in the Americas.¹⁶ Soon to come were Europeans displaced by Ireland's Potato Famine, Scotland's Removals, the revolutions of 1848 (Germans and French, in particular), and Italy's increasingly turbulent unification, as well as Chinese laborers, and seasoned American miners from the lead- and gold-rich regions of Wisconsin, Georgia and North Carolina. By the end of 1849, this cosmopolitan population, nearly all males, had swelled to 25,000.¹⁷

A hispanicized Italian not yet proficient in English, Ghirardelli gravitated to the Jamestown/Sonoma area of the Mother Lode, where fellow Italians from Latin America clustered at the rivers and mining camps.¹⁸ But Ghirardelli swiftly saw that the direction to move was not in mining for gold but in selling wares to miners needing supplies. He polled them for orders, like the biscuits he bought in Stockton, and returned to the camps to hand deliver the goods. Ghirardelli then opened a general merchandise tent-store in Stockton and ran delta shipments to and from San Francisco to replenish this stock. Before long he owned grocery stores in both cities, and, in the seaport, a soda fountain, coffee house, and part interest in a twenty-room hotel. By 1851, Ghirardelli was listed as one of San Francisco's "Moneyed Men," worth \$25,000.¹⁹ Massive fires that year destroyed his businesses, but the resourceful Italian bounced back by refinancing his interests and recruiting, then buying out, partners. On June 18, 1852, the chocolate company was officially launched as a manufactory and sales shop at the Verandah Building on Portsmouth Square.

There, Ghirardelli combined chocolate and candy with liquors, ground coffee, and spices as the focus of his business, always operating under a family name sometimes amusingly botched by Anglo typesetters and journalists (Glirardel, Girardello, Ghiarardelli, Gniradeili, Ghirardely, Gheardly). Over the next several years the Italian opened branch grocery and liquor outlets in Oakland, bought investment property in Fruitvale outside of Oakland that evolved from an orchard to a tract for row houses,²⁰ and ran several businesses in the Mother Lode country.

Among less than a thousand mostly Ligurian



The Ghirardelli chocolate factory on Jackson Street, San Francisco, in 1882. The building still stands and is now an antique store. Joseph Ghirardelli, the second son of founder Domingo Ghirardelli, is likely the gentleman standing at left. In addition to creating chocolate confections and its signature hot chocolate drink Broma, Ghirardelli also produced mustard and imported coffee and spices. *Courtesy Bancroft Library.*

Italians in a city leveling off to fifty thousand by the mid 1850s, Ghirardelli was part of a larger mish-mash of foreigners who regularly jumped across ethnic lines. Although he employed a small, all-Italian workforce and favored them with loans,²¹ his business partners were mostly non-Italians (the Anglo Cox, the Swiss Petar, and French-Alsatian Danzel). Ghirardelli served in the everyone-welcome Vigilance Committee of 1856 and joined the community conscious, mostly native English-speaking Society of California Pioneers in 1865.²² Used to communicating in other tongues, he helped forge ties between San Francisco's Italians and the more populous, powerful French community, which controlled eighty or more of the city's businesses as early as 1850.²³ He was active in the French-speaking Masonic lodge²⁴ and a Franco-Italian coalition of investors in the coal- and gold-seeking Buenaventura Mining Company.

Ghirardelli, a short, vigorous, hard-working man whom a later chronicler described as "companionable, generous . . . and an exemplary citizen,"²⁵ was a visibly successful Italian in San Francisco, but not the only one. Nicola Larco,²⁶ also a founding partner of Buenaventura, was another. Born near Rapallo, Larco also lived in Lima and also sailed in 1849 to San Francisco. Wealthy and civic-minded, he ran an extensive import-export business from 420 Jackson, across the street from Ghirardelli's operation, and had founded and guided, with Ghirardelli's support, the Italian Mutual Benefit Society to help indigent Italians. The two men became San Francisco's pro-forma Italian VIPs, serving in 1855 as delegates to a local celebration of a Crimean War victory²⁷ that their compatriots in Piedmont-Sardinia helped win against Russia with the armies of France, England and Turkey.

San Francisco's Italians kept a close watch at Italy's unification movement and the struggle toward a "reawakening," or resurgence (*Risorgimento*) to nationhood. *La Parola*, one of the earliest Italian-language newspapers in the United States, was published in Larco's building; he and Ghirardelli were major donors to the Garibaldi Guard, helping the charismatic guerrilla patriot Giuseppe Garibaldi lead his "Red Shirt" army to win unification in 1861 and continue his efforts at consolidation.²⁸ Ghirardelli also applauded Count Camillo Cavour's

diplomatic moves on behalf of the movement. Deeply occupied in business matters, however, the chocolate-maker generally kept a low profile in politics. His employee Angelo Mangini, however, was another matter.

This firebrand member of Giuseppe Mazzini's "Young Italy" movement had been sentenced to death because of his role plotting the antimonarchist Genoa uprising of 1854.²⁹ Mangini fled Europe via London and arrived in San Francisco in 1859, where he landed a job as Ghirardelli's bookkeeper. In 1860 Mangini started the city's second Italian paper, *La Cronica*, and seven years later, *La Voce del Popolo*, both dedicated to furthering republican ideals. In 1860 Mangini became a full partner at the Ghirardelli firm and no wonder. He was now part of the family, having married his employer's fifteen-year-old daughter Virginia in 1862, presenting the Ghirardellis with their first grandchild, Aurelia, in 1863.

The Ghirardelli family was not only growing but living a singular life on the California frontier. In 1853 Ghirardelli's Peruvian wife, her daughter (whose father had been French), and the couple's first two children had sailed from Callao to San Francisco to occupy family quarters above the confectionary on Portsmouth Square. The Old World living arrangement was repeated in 1857 when the business moved to Jackson Street, but quieter, sunnier Oakland beckoned. In 1859, Ghirardelli built one of that town's first big houses with a garden that took up a square block.³⁰ There the family grew to eight in an ambiance tinged with foreign influences. Their mother, a Spanish Peruvian living where Spanish speakers were much in evidence, though California was now part of the United States, spoke no English and had mostly Hispanic, Italian, and French friends.³¹

Italy remained a core reference point for the Ghirardellis. Outside the Oakland house was a large garden with marble fountains and statuary from Italy, including likenesses of diplomat Cavour and—on either side of a front-door staircase—figures of Christopher Columbus and George Washington proclaiming transatlantic ideals of independence and self-determination. In that garden Ghirardelli, for whom Italy was a source of "both instruction and great pleasure,"³² scrupulously nursed, as would a Ligurian farmer, a large fig tree. And, most astoundingly, he sent three of his five sons at age ten to be



A Hong Kong billboard from about 1900 with an eye-catching 3-D can advertising ground chocolate that could be "made instantly" in "one minute." *Courtesy Ghirardelli Chocolate Company Archives.*

educated at a Genoa boarding school.³³ Cesare, the youngest, died there, but Domingo, Jr., and Joseph returned at age seventeen to attain undergraduate degrees from the Jesuit Santa Clara College and work at the firm. Both men were bilingual throughout their lives with educations grounded in business, economics, and mercantile strategies. Ghirardelli, obviously, wanted his sons to continue what he had started.

CHOCOLATE CZAR

During the post-Civil War years, San Francisco emerged as the commercial center for a broad geographic region, with strong local industries a necessity because of the city's isolation. Manufacturing firms thrived for paper, sugar, furniture, upholstery, bricks, beer, and plumbing fixtures, to name a few.³⁴ Coffee and spices were offered by a

number of companies, including Ghirardelli's, but the market for chocolate was his alone.

In 1867, Ghirardelli hit paydirt with Broma, the firm's name for soluble ground chocolate (from *theobroma*, "god-food" in Greek, the technical designation for the cacao plant). It was invented accidentally a year or two before after unattended bags of chocolate paste in a hot room dripped butterfat onto the floor, leaving a greaseless residue that could be ground and easily sweetened.³⁵ Anticipating the transcontinental railroad's completion in 1869, the company seized on the mercantile possibilities and started producing the easy-to-ship, nonperishable "miracle" powder that made hot cocoa in a cinch and enabled baking with remarkable ease.³⁶

The next few years were roller coaster ones for the firm, however. In 1870 a nationwide recession took hold, and Ghirardelli, with partner and son-in-law Mangini, declared bankruptcy. Mangini, now three years a widower, was already fidgety, and fled to parts unknown when an accusation of embezzlement for more than \$10,000 came in from a business associate.³⁷ Ghirardelli turned to the situation at hand and scaled back. First to go, in 1872, was the general merchandise store in Hornitos, a Mother Lode town, wiping out the livelihoods of his stepdaughter, Dominga, and her husband, Frank Barbagelata.³⁸ In 1874 practically everything else—except the Ghirardelli plant in San Francisco—was auctioned, including the family house and contents, investment properties in Oakland, and at least four of Ghirardelli's branch stores. The sale yielded \$111,450.³⁹

Ghirardelli, now fifty-six, used hard work and the counsel of three talented sons to get the business back in shape, which was especially important because a French competitor, Etienne Guittard, had started a chocolate company in 1868 that would focus, and excel, not so much on over-the-counter products but on top-grade chocolate for wholesale customers.⁴⁰ The family team, eventually switching to a partnership under the name Ghirardelli and Sons, got aggressive. It bought new machinery and added an adjacent building on Jackson Street for a workforce of thirty, expanded markets to China, Japan, and Mexico, and solidified the western reputation in British Columbia, Arizona, Texas, and Utah.⁴¹ With Broma always at the forefront of its

identity, the company briefly marketed its own products under the designation "Eagle"⁴² and introduced streetcar and sidewalk ads on tin and wood to tout hot cocoa to children and families. By 1881 the term Broma had been dropped and Ghirardelli's Ground Chocolate, as it was now known, was the star seller. To make it, some 450,000 pounds of cacao beans were imported annually. Soon, sales amounted to one million pounds a year.⁴³

Retiring in 1889, Ghirardelli, a widower, returned on holiday to his native Rapallo and after a long stay died there at seventy-six of influenza on January 17, 1894. He had specified he be laid to rest in the land of self-made men, America, where fellow Italians like Larco, bankers and vintners such as Andrea Sbarboro and Carlo Pietro Rossi, and various entrepreneurs in truck farming, fishing industries, and produce markets made spectacular successes in San Francisco (the star of the legendary A. P. Giannini of Bank of America fame, had not yet risen). But few could rival Ghirardelli's quiet triumph at giving the West its primary Italian brand name, as normal to California consumers as Spreckels was to sugar or Folger's to coffee. Levi Strauss, a German Jew whose copper-riveted denim overalls were also born of miners' needs, was Ghirardelli's unknowing accomplice in fostering ethnic tolerance. And the Ghirardelli business, now run by his sons, had muscled its way into being one of the state's big manufacturers, holding its specialty as solidly as the big iron works, lumber companies, flour mills, and bottlers, keeping Californians supplied and employed at the turn of the century.

HEIR APPARENT

In 1895 the dynamic Domingo Ghirardelli, Jr., age forty-seven, became the president of the newly incorporated D. Ghirardelli Company, as it was now named to honor the founder. With executive siblings Joseph and Louis solidly behind the idea, the new family head convinced sisters Elvira and Angela, who were the fourth and fifth owners of the company, to move the plant to a larger, better positioned North Beach site.⁴⁴ In 1897 he wrote a classic high-stakes business memo: "In this country, in this age, there is no such thing as standing still. One must progress, or retrograde. 'Leave well enough alone'

(continues on page 105)



Company founder Domingo Ghirardelli, around 1875.
Artist unknown. Collection of Ghirardelli Square.



[Above] An 1894 panoramic painting of Rapallo, Italy, Domingo Ghirardelli's birthplace on the Ligurian Riviera, by Chris Jorgensen, his son-in-law. This Norwegian-born painter married Angela Ghirardelli, who was also an artist. The couple set up a San Francisco studio filled with plaster casts, oriental rugs, and other Victorian-era trappings of an artist's life. Chris painted plein-air landscapes, cityscapes, and marine subjects in oil and watercolor. His wife focused on still lifes and genre portraits. The Jorgensens settled for a time with Domingo, Sr., who had returned to Rapallo for a holiday in his old age, and were with him there when he died in 1894. *Collection of Ghirardelli Square.*



Italian artisans had settled in Peru from the earliest days of the Spanish colonies. In 1837 Domenico Ghirardelli left Genoa with his young wife Bettina and settled in Lima in 1838. The guano trade had brought riches to the city, and the young confectioner set up shop on the bustling Calle de los Mercaderes (Street of the Merchants), which opened onto Lima's central plaza. German artist Johann Moritz Rugendas painted the plaza's vibrant paseo in 1843. *Private collection.*



at] Ghirardelli's pronunciation-correcting parrot was
 oduced in ads between 1910 and 1916. Another enduring
 cot introduced around the same time was Planters' Mr.
 out. Courtesy Citicreations, Malcolm Lubliner Photography

The
**ALL
 PURPOSE**
Beverage

AND THE
 ALL PURPOSE
 TIN

GHIRARDELLI'S CHOCOLATE

RECIPES

The Panama-Pacific International Exposition of 1915, a multi-colored, neo-beaux-arts "dream city" on 635 acres celebrating the opening of the Panama Canal, fed the ambitions of San Francisco businessmen. Domingo, Jr., secured a prized corner-entry position, to the left in the photograph below. Twenty million visitors took in the sights during the exposition's nine-month run. Collectible stamps, shown at right, issued by Ghirardelli commemorated the company's presence at the fair. Photograph courtesy of the Oakland Museum of California. Stamps courtesy of Ghirardelli Chocolate Company Archives.





The Jorgensens returned to California and fell in love with Yosemite, where they lived and worked for seventeen years. They hired Bay Area shingle style architect Walter Mathews to build a log-beamed Sierra vernacular structure they called "The Studio"; Chris painted this small watercolor as a personal memento. Here Chris Jorgensen painted and served as a guidepost for visiting artists and high-end tourist-collectors, and Angela was the hostess, muse, and occasional art maker whose income ensured optimum working conditions—studio, setting, contacts, childcare, inspirational artifacts—for her husband. *Private collection*



Late nineteenth-century and early twentieth-century Ghirardelli advertising emphasized chocolate's place in cozy domestic scenes. *Courtesy Cityvisions, Malcolm Lubliner Photography.*



Using the pyrographic technique of etching images into wood with a hot poker, Angela Ghirardelli created a cozy if stereotyped scene for this cocoa ad in 1885; she used relatives, and a beloved servant as models, according to family lore. The company reproduced multiple replicas in 1935. *Original Ghirardelli Chocolate Company Archives. Photo from a replica in the author's collection.*

Below and right | Ghirardelli advertising art showing a variety of products from the 1930s to the company's centennial in 1952. Following World War II when its bars were included in soldiers' D Rations—Hershey dominated the chocolate industry and Ghirardelli unwisely rested on its reputation as the "Chocolate of the West." The company declined in profitability and was sold to the Golden Grain Macaroni Company ("Rice-a-Roni") in 1952. The brand is now owned by Switzerland's Lindt-Sprüngli Chocolatiers. Photograph below by W. G. Harris Photography, Los Angeles; at right, courtesy of Cityvisions, Malcolm Lubliner Photography





Four generations of Domingo and Carmen Ghirardelli's descendants gathered to celebrate the family exhibition opening at the Museo Italo-Americano near Ghirardelli Square in 1999. Among the surnames here are Skov, Moreno, Watson, Brandt, and Sanchez—none are named Ghirardelli; the last male descendant bearing the family name died in 1990. *Photograph and color styling by W. G. Harris Photography, Los Angeles.*



Sons and daughters of Domingo Ghirardelli with their spouses, a snapshot taken in Oakland in 1895. From left to right: Addie and Domingo Ghirardelli, Jr.; Ellen and Joseph Ghirardelli; Johanna and Louis Ghirardelli; Elvira and Charles Sutton; and Angela and Chris Jorgensen.
From a Ghirardelli family scrapbook

means stagnation and decay; either retire from the business or be abreast of it."⁴⁵

San Francisco's business climate was conducive to expansion at the turn of the century, as companies focusing on manufacturing, shipping, and finance evolved into competitive big-city operations. The first task on Domingo, Jr.'s agenda was to update and expand chocolate operations in the former woolen mill buildings on the new property, the square block we now know as Ghirardelli Square, with additional structures, new machinery, better packaging and storage systems, and rail connections to waterfront piers. The 1906 earthquake was a temporary interruption rather than a setback, leaving the factory and equipment largely unscathed, but brought human loss with the death of Joseph, age forty-seven. With

youngest brother Louis already four years dead of pneumonia, Domingo, Jr. pushed ahead without fraternal counsel. In 1910, he accelerated advertising with an aggressive print ad campaign of line drawings focusing on the Ghirardelli firm's historical role and hot cocoa's allure for romance and health; a pronunciation-correcting parrot, Ghirardelli's long-time mascot, was also introduced to implore customers to "Say Gear-Ar-Delly."⁴⁶

The Panama-Pacific International Exposition of 1915, a multicolored, neo-beaux-arts "dream city" on 635 acres celebrating the opening of the Panama Canal, fed the ambitions of San Francisco businessmen. Ghirardelli, a fair commissioner with other business, cultural, and social leaders, could help mold the event's potential. Among palaces, I

and courts on American agriculture, machinery, and horticulture, and exhibits and pavilions for twenty-five nations on four continents was a seven-block entertainment and commercial area.⁴⁷ Aware of the threat of Hershey's competition from the East Coast, the chocolate-maker secured for his company a prized corner-entry location—the other's was Welch's Grape Juice⁴⁸ and commissioned Bakewell and Brown, architects, to build a flag-bedecked, belle époque soda fountain-cum-sales/demonstration fantasy pavilion.⁴⁹ Some twenty million visitors poured through the fair during its nine months. In 1916, buoyed by the fair's publicity and sales, the family board authorized two crowning touches for the factory: a clock tower by architect William Mooser finished in 1916, following the post-fair vogue for imitating European structures, in this case the fifteenth-century Chateau Blois in France, and a few years later the 125-foot-long, two sided electrified Ghirardelli sign with monumental lettering in the style of the name on the ubiquitous orange cans of ground chocolate.

That factory banner proclaimed both the chocolate as well as San Francisco's Italian heritage. But Italian immigration had changed radically since Domingo, Jr.'s father arrived in 1849. Immigrants now came mostly from southern Italy—Naples, Sicily, or Calabria—not the north, and they were not political and economic refugees seeking opportunity in half-formed societies, but poor, often unskilled working class or farm people drawn by the labor needs of an expanding industrial system. The numbers of yearly immigrants from Italy to the United States, which had been 12,000 in 1880, reached an all-time peak of 235,000 in 1907.⁵⁰ Ellis Island in New York was the chief entry port, and those who could afford the trip across the country came to San Francisco's North Beach, where a relatively compact Italian colony swelled to tens of thousands by the turn of the century.⁵¹ Many were hired by Italian-owned factories, including Ghirardelli's and the nearby canneries for Del Monte fruits and vegetables owned by Marco Fontana, but at substandard pay levels for jobs no one wanted.⁵² Northern Italian bias against southern Italians may have exacerbated the situation, or it may not have, since wages were low no matter where immigrants came from.

Domingo, Jr., was nonetheless proud of his Italian roots. Born in Peru and molded by Italy at an early age, he spoke his father's native tongue haunted North Beach markets and cafés,⁵³ and kept involved through charity work as founding director and then first vice president, in 1916, of the Italian Board of Relief (later the Italian Welfare Agency).⁵⁴ His largely Italian workforce, even the poorly paid ones, must have been inspired and impressed by his attunement to their culture.

But to his social and business peers, Domingo, Jr., was "not considered an Italian but an American," according to his grand-niece.⁵⁵ Growing up in fashionable Oakland, he married a Protestant judge's daughter, a neighbor, and relocated to San Francisco where the couple raised eight children in ever larger, higher-on-the-hill Victorian row houses that culminated, in 1905, with a neo-Tudor mansion (now demolished) atop Pacific Heights.⁵⁶ Fully engaged in high-end commerce, Domingo, Jr., won broad respect among the city's business leaders and worked with many of them in mutually beneficial ways.⁵⁷ Spice tycoon August Schilling, for instance, produced and packaged his brand of wet mustard at the Ghirardelli plant, which had the equipment his own factory did not. The little remembered Ghirardelli dry mustard was also produced there, offering a complementary, rather than competitive product. Lithographer Max Schmidt's printing plant south of Market Street did all the chocolate company's labels and wrappers, and Italian marble importer Joseph Musto, based at the foot of Telegraph Hill, supplied the materials to spruce up the new Ghirardelli offices and exteriors on North Point Street as remodeling began in 1896.⁵⁸ Domingo, Jr.'s, socially astute wife Addie Cook Ghirardelli, meanwhile, attracted and entertained a broad circle of friends, dressed herself and her family in impeccable fashion while guiding them to Episcopalianism, and conceived a spectacular European grand tour for herself and her husband in 1912, when their children were mostly grown. After Domingo's retirement in 1922, the couple lived out their lives at the rambling, Spanish-style *La Feliciano* on several sloping acres in Hillsborough.⁵⁹ These Ghirardellis defined for themselves what it means to be Italian-American, helping invent, as Kevin Starr has put it, a California dream.

ARTISTS FOR CALIFORNIA

Domingo, Jr.'s life makes a startling contrast to that of his artistic sister, Angela. Ten years younger, this observant young woman fed her drawing talent by enrolling in the Mark Hopkins Institute of Art in San Francisco in the early 1880s, and there met and married her instructor, Norwegian-born painter Chris Jorgensen.⁶⁰ The couple set up a San Francisco studio filled with plaster casts, oriental rugs, and other Victorian-era trappings of an artist's life. Chris painted landscapes, cityscapes, and marine subjects in oil and watercolor. His wife focused on still lifes and genre portraits, becoming particularly skilled at xylography, the technique—which she had earlier learned for a company ad—of burning images onto wood with a hot poker.⁶¹ Both artists were reviewed in local papers.⁶²

In 1892–94, the Jorgensens were away from San Francisco absorbing art in Venice, Naples, Rome, and Florence, where Chris studied under Rafaele Sorbi of the *macchiaioli* group of plein-air landscapists who advocated fast-paced, intense observation to depict nature's moods.⁶³ They settled for an extended period with Angela's retired father Domingo at Rapallo, his birthplace. There, almost certainly commissioned by Ghirardelli (who earlier sat for a marble bust in Genoa),⁶⁴ Chris created a crisply believable, panoramic oil of the patriarch's mountain-ringed waterfront town.⁶⁵ Ghirardelli may never have seen this work finished, however. With the Jorgensens at his bedside in January 1894, he died.

The Jorgensens returned from Italy saddened but bolstered by financial advantage—Angela received six thousand dollars flat out from her father's will⁶⁶ and became one of five sibling stockholders in the company, set up for life to receive 8 percent of company profits.⁶⁷ In California, they found and joined a blossoming of interest among artists and intellectuals in the state's rugged natural beauty, indigenous cultures, and colonial past—an interest congealing into a post-Victorian aesthetic of arts-and-crafts simplicity.⁶⁸ Jorgensen, the fledgling landscapist, rediscovered Yosemite's scenery, which had made the careers of his mentors Virgil Williams and Thomas Hill.⁶⁹ In 1899, painting from a riverside studio camp, he was named Yosemite's artist-in-residence.

Hiring Bay Area shingle-style architect Walter

Mathews to build a log-beamed Sierra vernacular log structure they called "The Studio,"⁷⁰ the Jorgensens lived and worked in Yosemite for the next seventeen summers, he the jovial, personable painter and guidepost for visiting artists and high-end tourist-collectors, and she the hostess, muse, and occasional art maker whose income ensured optimum working conditions—studio, setting, contacts, child-care, inspirational artifacts—for her husband. This sociable, thoughtful couple won over President Theodore Roosevelt on his 1903 visit to secure Yosemite's future as a national park;⁷¹ they offered strong support to the local Native American culture as well.⁷²

The Jorgensens also loved California's coast and above all Carmel, which they discovered in 1903 as Chris undertook painting the twenty-one missions.⁷³ The seaside hamlet's "informal community of [creative people] responding to a similar cluster of California imperatives: simplicity, health, art"⁷⁴ had not yet formed, but in 1905, shortly after writer George Sterling and photographer Arnold Genthe built retreats there, the Jorgensens moved into their new large stone house, "La Playa," based on Chris's design.⁷⁵ From this winter studio, he painted the same crumbling ruins, twisted cypresses, and rocky vistas as did a growing number of other artists of varying stylistic bents (soft-focus, pattern, nocturne) attracted to the area, but remained resolutely "rapid-fire," as one journalist dubbed him,⁷⁶ which is to say depictive, prolific, and salable. Such an individual fit well in Carmel's art colony, which welcomed all comers.

One of them was the Jorgensens' niece Alida Ghirardelli, whose paintings focused on maternal subjects and children. A frequent Carmel visitor, this eldest daughter of Domingo, Jr., had lived from 1901 to 1906 in Paris where she was influenced by the aging Impressionist Mary Cassatt,⁷⁷ Velázquez's darkly dramatic tableaux of the seventeenth century, and, very likely, Picasso's down-at-the-heels contemporaneous blue period. The soft-edged, melancholic, yet robust paintings that emerged might well have evolved into an important contribution to California art, but in August 1909, out for her daily swim off Carmel, the young painter, twenty-nine, was overcome by a vicious undertow and drowned.

Alida's death devastated the Jorgensens.



gave up "La Playa" and briefly resided in a new studio-residence near Chris's gallery in Pebble Beach.⁷⁹ But a completely different project now challenged Chris—to complete four mural-size oil paintings depicting cocoa harvesting and chocolate manufacture for the Ghirardelli Pavilion at the 1915 Pan-Pacific Exposition.⁸⁰ Photographs of the works are regrettably lost, so it is difficult to assess them now. The paintings, nonetheless, gained him considerable exposure at the exposition, though it was not with some thirty other California painters in the American section of the fine arts show. Perhaps Jorgensen, at 55, was the wrong generation; his work might have been seen as offering nothing particularly new or "modern." Or perhaps the ill-composed, overworked quality his landscapes sometimes suffer kept him out of the running. Still, Jorgensen's best watercolors remain a pleasure to the eye.

In 1917 the Jorgensens ceased their Yosemite-Monterey peninsula routine and moved permanently to Piedmont to spend their last years near Ghirardelli relatives in a final, striking studio-residence.⁸¹ These authentic members of California's founding Bohemia, who died within months of each

other in the mid-1930s, could look back on lives well spent. Their nomadic, exceedingly generous existence, made possible by profits from the chocolate business, helped foster a nature-based aesthetic for California. The state's sense of itself as a center for art would have been much diminished without the Jorgensens and their silent partner, chocolate.

GRANDSONS TAKE THE HELM

D. Ghirardelli Company, led by four grandsons of the founder under the watchful eye of his retired son, Domingo, Jr., surged through the 1920s backed by a strong economy and widespread advertising. Billboards throughout California, Oregon, and Washington and eastward to Denver⁸² proclaimed the brand's sweet taste and appeal to children, while the mascot parrot taught the proper pronunciation of the Italian name.⁸³ There were Ghirardelli trading cards with local water fowl and Hollywood stars of the silent era, regular radio sponsorships, and a friendly woman's column in several western newspapers sharing recipe ideas for ground chocolate. A quasi-educational half-hour silent film shown in movie the-



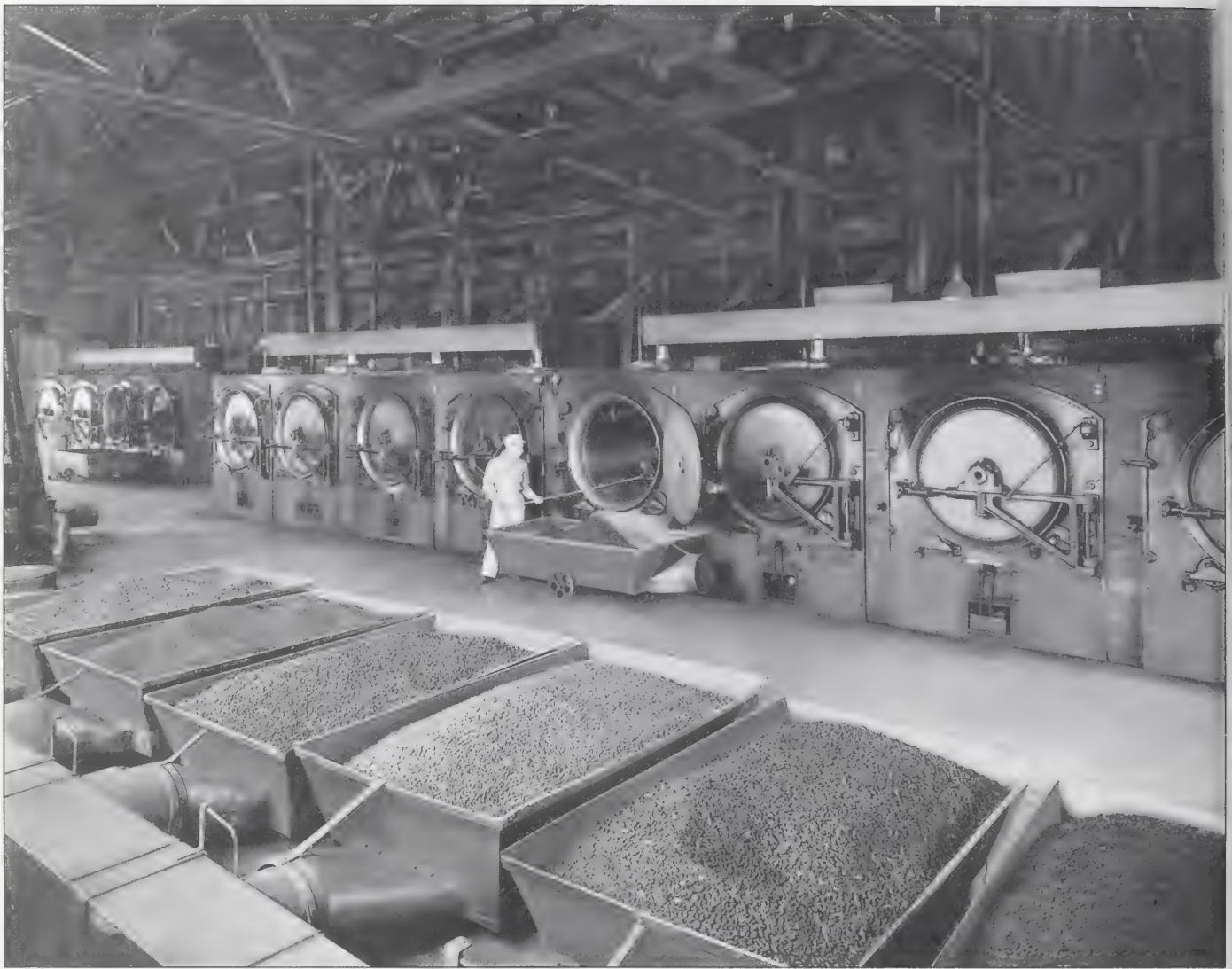
[Facing page] Lyle Ghirardelli, Domingo's grandson, hard at work in his San Francisco office around 1922, the year he succeeded his father as president of the company. Genoese sculptor Antonio Bozzano's marble bust of the founder (now in the collection of Ghirardelli Square) watches over the scene. Lyle (left, in the 1932 photograph shown above) relied heavily on his three cousins Alfred (vice president and known to many friends as "Koko"), Louis (sales manager), and Harvey (plant manager). The four men steered a steady if conservative course, resisting unionization until 1934 and keeping the company profitable through the Depression. "People," a family proverb held, "eat chocolate in hard times." *Author's collection.*

aters, "A Sweet Story,"⁸⁴ took viewers from Central American cacao bean harvests to the San Francisco factory's state-of-the-art machine-age, conveyor-belt chocolate production, ending with two happy-faced scamps eagerly unwrapping and chewing a chocolate bar.

That candy bar was now an imperative for Ghirardelli. Milton Hershey's firm in Pennsylvania had introduced the "nickel bar" of milk chocolate in 1900,⁸⁵ and although it did not enjoy wide success for several years, Ghirardelli responded by developing its distinctive-tasting Sweet Milk Chocolate bar soon after. The Eastern firm introduced the bite-sized, individually-wrapped Kisses in 1907,⁸⁶ and Ghirardelli then started making its flatter, coin-shaped chocolate drops known as Flicks, particular best-sellers as movie house snacks, with a name fitting that location perfectly. No Hershey concoction could compete with Ghirardelli's hot cocoa, however. Hershey, although a national company, had no presence at the 1915 exposition, thanks, we can presume, to Commissioner Domingo Ghirardelli, Jr. The decades-long competitive dance between Ghirardelli and Hershey had begun.

D. Lyle Ghirardelli, the third "Domingo" but known by his middle name, succeeded his father as president in 1922. Perhaps because his headstrong father remained active as board chairman for the next decade, the quiet, strategic Lyle relied heavily on his three first cousins from the Louis Ghirardelli branch, who had also risen in the firm. Alfred, the eldest, starting as a machinery foreman in 1907 after earning a mechanical engineering degree from Berkeley, had already shown considerable people skills by quelling a strike by Ghirardelli workers who refused to work for a German manager during World War I.⁸⁷ He was now vice president. His gregarious sibling Louis (named after the brothers' father) was the sales representative who plotted publicity and won over institutional customers. Harvey, the youngest, was the detail-oriented plant manager and an effective participant in the company operation for a time.⁸⁸

The grandsons maintained a steady, but conservative, course for the company, coming out against unionization at first in favor of competitive and employee benefits. Most of the one fifty-plus Ghirardelli workers were l



A worker shovels chocolate beans into a roaster in the Ghirardelli factory in the 1920s. Most of the Ghirardelli employees were of Italian descent and many had fathers and grandfathers who had worked for the company. Women had mostly sorting, packing, and wrapping duties. Among them was the mother of San Francisco Mayor George Moscone. *Courtesy Ghirardelli Square.*

many were multigenerational,⁸⁹ so to keep morale high, the importance of community was stressed. When money became scarce during the Depression and Ghirardelli unionized in 1934,⁹⁰ management was cautious—no new product lines or equipment were pursued, and advertising was scaled back. But the company stayed on course (“People eat chocolate through hard times” was a family proverb); the mustard alliance with Schilling continued smoothly. So when San Francisco again prepared for a World’s Fair—the Golden Gate International Exposition on Treasure Island in 1939—Ghirardelli could still proclaim its status as the West’s number one chocolate with an art-deco pavilion marked by a huge parrot.

THE ITALIAN AMERICANS

Between the wars, Ghirardellis were Italian Americans on the move. The family name was everywhere, as this powerful clan cajoled business associates and social acquaintances to give money to favorite causes and become involved. Ghirardellis served on the board of A. P. Giannini’s Bank of America, a particularly meaningful link, and raised money for the University of the Pacific. They were founders of the Community Chest/United Crusade and of the San Francisco Junior League. They volunteered tirelessly to plant city trees, organize baseball youth leagues, and care for orphaned and abandoned children in North Beach.⁹¹ Ghirardellis

ed their good fortune, in short, to make things better for people. While not all this community service entered on the Italian community, the visibility of Ghirardellis spoke well for Italians.

This might have been needed. For some decades now, mainstream Americans watched as "the most disadvantaged and humble white people [they] had never seen"⁹²—poor Italians from Naples southward and Sicily—streamed in through Ellis Island and populated their cities. Real and imagined negative stereotypes of unruly, uneducated, swarthy Italians began to arise through a variety of news events: the Great Lawrence (Massachusetts) Strike of 1912 and its rioting laborers, the trial and execution of political anarchists Nicola Sacco and Bartolomeo Vanzetti, and the Prohibition-era mob violence of Al Capone and others.⁹³ Even though the well-to-do, old-line West Coast, northern-Italian Ghirardellis were removed psychologically and geographically from these developments, an awareness of anti-Italian prejudice filtered into the family's consciousness, and small but significant gestures were made to combat it.

My grandfather Alfred Ghirardelli, despite his public persona of leadership and affability, knew he was part of a minority. One way he handled it was through self-deprecating humor. With a mischievous grin and an Italian wave of his hands, he often referred to himself and his relatives, among intimates only, as wop, dago and guinea, beating the xenophobic enemy at its own game. Yet he frequently blasted what he considered bad acts and behavior by Italians with an abrupt, condemnatory, "Ah! Sicilians!"

Koko, as his intimates called him, was pragmatic and proactive. In seeking the safe haven of a men's club with a country retreat, he joined The Family, in part, because as an Italian, he could not tolerate prejudice. Too many of his close friends were Jews, and this club had a tradition of openness.⁹⁴ And when his daughter Polly (my mother) pondered going east for college, he said no, shielding her from the ethnic bigotry he knew lay beyond the Bay Area, particularly among patricians, as he had already protected her from childhood kidnapping threats.⁹⁵ Eastern snobbery jolted my grandmother's dining room once when a Bostonian friend of a friend, upon exiting one of her dinner parties, sniffed: "Mrs. Ghirardelli, you do so well for someone with a pronounceable vowel at the end of your name."

Ironically, Mrs. Alfred Ghirardelli was of Anglo-Irish and French-Alsatian blood, not Italian, and her husband was half German. The Ghirardellis mingled and married with others of their choosing, no matter what ethnicity. The family line now had many Northern European, Scandinavian, and Anglo-American strains. And few of the twenty or so quarter-Italian, quarter-Spanish, half-everything-else Ghirardellis of this third generation practiced Roman Catholicism, having been thrown afiel by their virulently anticlerical grandfather's emotional break from the Church several decades back.⁹⁶ Whether this made them any more or less "Italian" was immaterial: Ghirardellis were Italian-Americans unto themselves.

Few family members would make more of the panache of an Italian ancestry than my grandfather's first cousin Carmen (1896–1971). Named after and strongly resembling her Peruvian grandmother, this Miss Ghirardelli in 1917 became Mrs. George Washington Baker II—no relation to the chocolate Bakers of New England (or the Founding Father!) though people often assumed it was a joining of dynasties—and thereafter moved easily between California, the East Coast, and Europe. Her husband's political connections ultimately got them three years in Rome (1949–1951) as part of the ERP (European Recovery Program), where George, a former Franklin Roosevelt protégé, served as deputy for Industry to aid Italian woolen mills and auto manufacturers.⁹⁷

The Bakers lived at the ultra-fancy Excelsior Hotel and mingled with industrialists, nobles, government ministers, movie people, and fellow foreigners smitten with Italy. They went on extended jaunts north to Turin and Trieste, where George consulted at the Fiat and textile factories, and made lifelong friends with well-to-do Italian families connected with his work. Through it all Carmen, who became fluent in Italian, made no mystery of her exotic background as a chocolate heiress from the American West. She never forgot Italy, later helping to found, for Old Guard San Franciscans like herself, the Rome-styled Villa Taverna eating club in Jackson Square, around the corner from one of her grandfather's earliest Gold Rush-era factories.

Because of San Francisco's ethnically jumbled mix of Irish, Italian, and non-Mayflower-oriented culture, a Carmen Ghirardelli Baker could be the very embodiment of

the elite. Few other established American metropolises of the early to mid-twentieth century—only, perhaps, St. Louis and New Orleans, because of their French (and in the case of the latter, Spanish-Caribbean) backgrounds—had so easy an attitude in terms of who was “acceptable” within white high society. Italian names showed up in society columns and on social lists alongside Jewish, Irish, Hispanic, and WASP names.⁹⁹ Ghirardellis lived in fashionable Bay Area spots—Pacific Heights, Berkeley’s Tunnel Road, a Telegraph Hill penthouse, all over Piedmont,¹⁰⁰ and in big country spreads to the north and east,¹⁰¹ riding and dressing Western-style, going to white-tie balls, and yet, in the case of two Ghirardelli men in the 1920s, returning for “roots” trips to Italy.¹⁰² Every Columbus Day, a large, all-age family group gathered on the Ghirardelli factory roof to cheer a costumed actor playing Genoa’s most famous native son as he landed at Aquatic Park below, launching the annual parade.¹⁰³ Fiercely proud of their Italian heritage, Ghirardellis epitomized the maverick, individualist streak of San Francisco, a rule-breaking city of the West, like Los Angeles, Tucson, Portland, Phoenix or Seattle, that the rest of America, particularly Easterners, found hard to pigeonhole.

THE SLOW DECLINE

World War II, a defining event for West Coast economics and demographics, also affected the Ghirardelli business. After December 7, 1941, Hershey’s in Pennsylvania, not Ghirardelli, was tapped by the military for full-scale production of D Ration chocolate bars for troops in Europe and the Pacific. The huge contract transformed American soldiers and adults into Hershey chocolate eaters—75 percent of the chocolate eaten in the United States during wartime was produced by Hershey.¹⁰⁴ But as San Francisco emerged as a staging area for the Pacific Theater, the Ghirardelli name put itself forth in other ways. As U.S. Navy ships crossed the Golden Gate, the Ghirardelli factory whistle sounded off to greet or bid farewell, and the big Ghirardelli sign flashed its lights. Ghirardelli, not so much for its chocolate, but for its landmark status, became part of wartime pageantry and lore.

In 1944 Alfred, age sixty, took over the company

presidency from Lyle, and a gnawing question persisted: Who would take over from the fourth generation? He had lobbied to have his daughter Polly brought in,¹⁰⁵ but because she was a woman, that idea was nixed by the traditionalist Lyle whose own son D. Kent Ghirardelli, the fourth “Domingo,” ironically, soon fled to carve a successful career under the chocolate-free, non-Italian name Ghirard (pronounced with a soft G!) leading one of Hawaii’s most celebrated hula troupes of the 1950s.¹⁰⁶ Nephew Bob Ghirardelli (Harvey’s son) already worked at the factory, but this pianist and watercolorist yearned for a creative life and was unremarkable as a businessman.¹⁰⁷ Offering hope were three returning servicemen: George Baker III, Ben Reed (grandson of founding sibling Elvira Ghirardelli Sutton), and my father Sidney Lawrence, Jr., who chose working for his father-in-law over business school to support a family.

The postwar years started out promisingly. In 1947, reports showed working capital of \$1,325,000, nearly \$200,000 in net profits, and a healthy 10 percent rate of return.¹⁰⁸ That year Nu-Malt, a powdered product with a new Ghirardelli taste, was introduced. And by 1952, when the company celebrated its one hundredth anniversary with moderate publicity, the prospects looked good: new lines of chocolate bars in shinier wrappers incorporated raisins and almonds, and Flickettes, a smaller, chocolate-chip-cookie-friendly version of the popular movie snack Flicks, were heavily promoted to stores and distributors.

But California was changing. The 500,000-plus new residents arriving yearly¹⁰⁹ brought their own tastes and habits, and many simply did not recognize or care about this Italian-named “Chocolate of the West.” Hershey’s, which saw national sales rise from \$149 to \$170 million from 1950 to 1960,¹¹⁰ was the star brand, and Ghirardelli bars (even to me as a young child) began looking like imitations, with the same shape and etched name. Yet despite pleas from my father and his fourth-generation co-workers to advertise, especially on the powerful new medium of television, management eschewed this strategy—as Hershey’s did at the time—believing that Ghirardelli could ride on its reputation alone. Meanwhile, the supremacy of Ghirardelli’s reliable ground chocolate was threatened by liquid choco-



As San Francisco emerged as a staging area for World War II's Pacific theater, the Ghirardelli factory whistle sounded off to greet or bid farewell, and the big Ghirardelli sign flashed its lights. Ghirardelli, not so much for its chocolate, but for its landmark status, became part of wartime pageantry and lore. The sign continues to be one of the city's landmarks, as seen in Val Diamond's headpiece in the musical revue *Beach Blanket Babylon*. Courtesy Steve Silver Productions.



Ghirardelli Square was one of the nation's first industrial concerns adapted for retail and tourism; it opened in 1964. *Courtesy Ghirardelli Square.*

late blends like Hershey's Syrup, Bosco, and Nestle's Quik that made hot cocoa, chocolate milk, and ice-cream sauce more easily and instantly. With products like these—and M&Ms (from the Mars company) and Hershey Kisses inching in on the popularity of Ghirardelli Flicks, not to mention See's boxed candies from Los Angeles—the company was losing ground.

When Alfred retired as president in 1955 because of ill health at seventy-one, youngest brother Harvey took over, and the situation grew worse. This former "junior team player" became a secretive and hostile company boss. Under Harvey, the company reached new annual lows of 2 percent net income, 4 percent rate of return, working capital of \$370,000, an earned surplus of \$3000,¹¹¹ and sales of only

1,000,000.¹¹² The infrastructure started to fall apart with instances like an uninsured infested shipment from South America.¹¹³ By 1960, word was out: D. Ghirardelli Company was for sale. Hunt's Foods, General Foods, and other conglomerates were approached but none responded. Developers made overtures to buy the Ghirardelli block to continue the high-rise luxury apartments they had just put up where the demolished Fontana cannery had been next door. The offer created a stockholder deadlock, and was rejected. But what now?

Entrepreneur and shipping heir William Matson both had the answer. Troubled by the demolition of the 1853 Montgomery Block studios downtown and inspired by the Jackson Square restorations, Roth had the vision to convert the Ghirardelli buildings and grounds into a retail and restaurant complex. In 1962 he bought the property for \$2.5 million.¹¹⁴ The next year, the Italian-American-owned Golden Grain Macaroni Company, in the flush of national success with Rice-A-Roni, paid \$100,000 for the brand, equipment, formulas and inventory, renting half the block until it could move production to an industrial exurb.¹¹⁵ Two of the Bay Area's more adventurous molders of environments—the architectural firm of Wurster, Bernardi and Emmons, and landscape architect Lawrence Halprin—teamed up to develop Ghirardelli Square. Its launch in 1964 was applauded equally by city planners and historic preservationists.

REINVENTION

From the start, Ghirardelli Chocolate Company (with the "D." for Domingo eventually dropped) and Ghirardelli Square fed one another's success and public image. Golden Grain launched a TV ad campaign for the old stand-by, Ghirardelli's cocoa, with an animated parrot squawking "Say Gear Ar Delly," but the ads were eventually dropped. Why bother? The best ad of all sat near Fisherman's Wharf. A castle-like structure crowded with well-appointed stores, good restaurants, water reflections and sunshine, Ghirardelli Square took off as an attraction for tourists and locals alike. The ever-chic converted factory and namesake brand, elevated by Golden Grain (above Hershey) to an affordable American luxury with accessorized retail stores, maintained a pro-

ductive symbiosis through the 1960s, '70s, and '80s against a backdrop of San Francisco's growing renown as "Everybody's Favorite City" and beacon metropolis (with New Orleans, of course) of European-ness.

The Ghirardelli clan, meanwhile, stepped aside, some very rich and others not at all. Family members, fewer and fewer bearing the name, pursued livelihoods and identities outside the chocolate realm, adding yet more ancestries from every corner of Europe, and more recently, the indigenous Americas and sub-Saharan Africa. The last descendant called Ghirardelli—Robert of the fourth generation—died in 1990.¹¹⁶ But the name, of course, lives on. Today the Square attracts visitors as an office as well as a retail space,¹¹⁷ and the brand, currently owned by Switzerland's Lindt-Sprüngli chocolatiers,¹¹⁸ can be found everywhere from international flight menus to gourmet shops in New York City.

Ghirardelli, a product, a landmark, and once a family, is something of an icon. Italian yet American, immigrant yet old-line, and authentically San Franciscan throughout, it has given California a captivating, emblematic lens through which to reflect on itself.

Chs

See notes beginning on page 104

Sidney Lawrence is Head of Public Affairs at the Smithsonian Hirshhorn Museum and Sculpture Garden in Washington, D.C. He has curated solo shows there of works by Roy Lichtenstein, Houston Conwill, Boyd Webb, Alison Saar, Tony Oursler, and Ron Mueck. He has published on modern design in Art in America and is co-author of Music in Stone: Great Sculpture Gardens of the World (1984). Lawrence is a member of the American Institute of Architects and also serves on the advisory committee of the Lawrence Center at Brooks School, North Andover, Ma.

Who Made Drake's Plate of Brass?

Hint: It wasn't Francis Drake

by Edward Von der Porten, Raymond Aker,
Robert W. Allen, and James M. Spitze

A brass plate engraved with Francis Drake's claim to vast reaches of North America became this state's greatest historical treasure when it was found and authenticated in the late 1930s. The plate would become California's greatest hoax when it was retested forty years later. In those four decades it distorted the record of Western American exploration history and acquired a complex history of its own. That long-hidden story involves the interplay of misguided humor, wish fulfillment, fear of consequences, failure of courage, and perhaps a bit of malice, that enmeshed both hoaxers and victims. Despite the plate's more than six decades of fame and notoriety, who made the plate, why it was made, and why the hoax lasted as long as it did have never before been made public.

The hoaxers hid their participation, but they left a faint trail that could still be followed when the authors and their colleagues began an intensive search in 1991. No single piece of evidence revealed more than a fraction of the whole story, but first-, second-, and even third-hand memories, most recorded twenty to forty years or more after the events they describe, combined with a spoofing letter and an enigmatic book by a roisterous fraternity, built a body of interlinking evidence that led to this reconstruction of the plate's story.

FRANCIS DRAKE'S PLATE OF BRASS

Francis Drake landed and built a fortified encampment in California in the summer of 1579 to repair and reprovision his ship, the *Golden Hind*, during his voyage around the world. Before he left, he

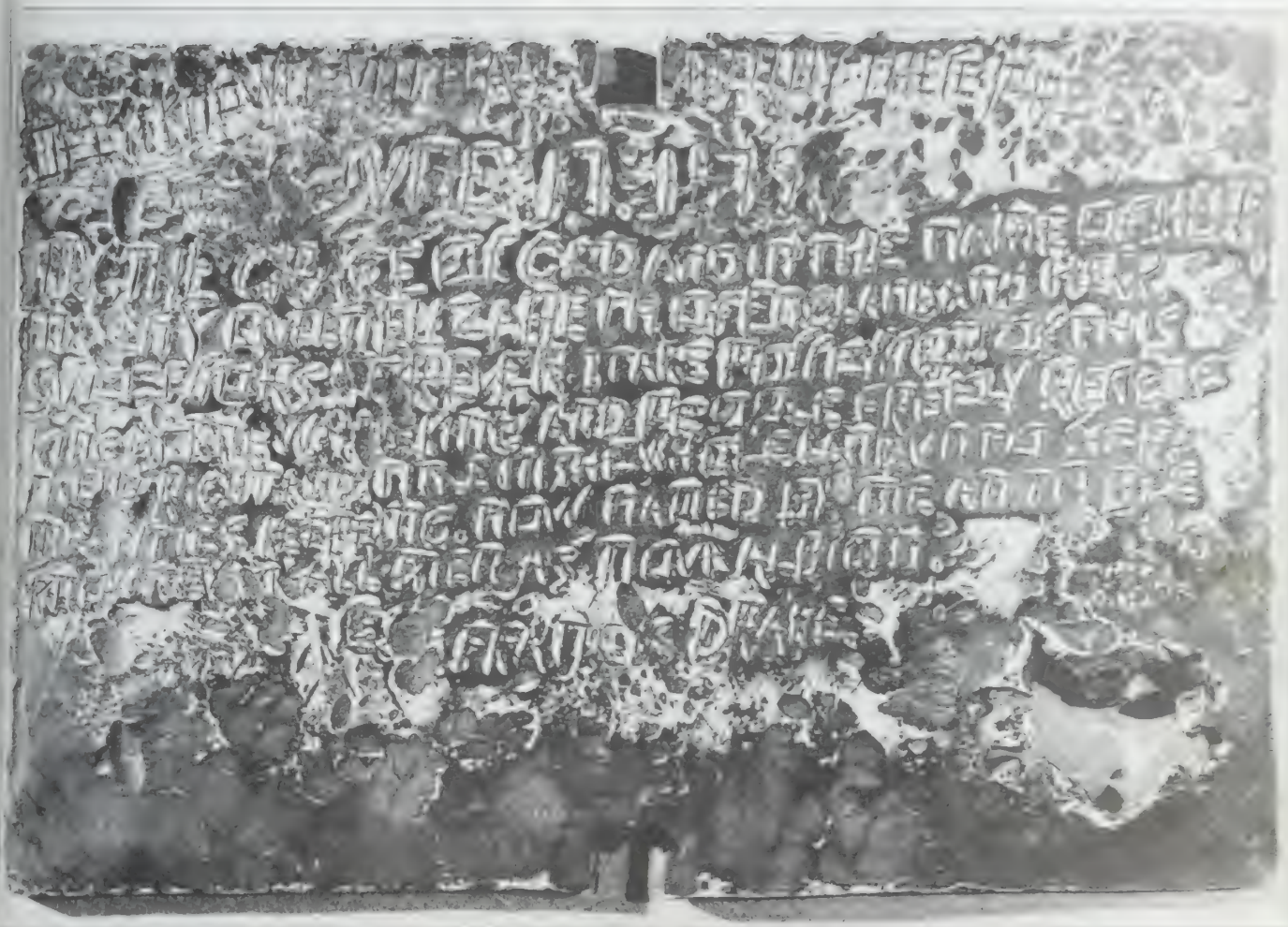
set up, a monument of our being there; as also of her maiesties, and successors right and title to that kingdome, namely, a plate of brasse . . . whereon is engraven her graces name, and the day and yeare

of our arrivall there, and of the free giving up, of the province and kingdome, both by the king and people, into her maiesties hands: together with her highnesse picture, and armes in a piece of sixpence . . . shewing it selfe by a hole made of purpose through the plate: underneath was likewise engraven the name of our generall &c.¹

This was the first English claim to the land that would become the United States of America.

Drake's plate and the post on which it was mounted vanished after he sailed off across the Pacific, but its memory survived in the accounts of the voyage, and scholars of exploration were well aware of it. Among them was Herbert Eugene Bolton, Sather Professor of American History and Director of the Bancroft Library at the University of California, who enjoyed an international reputation for his scholarship on the American West.² By the late 1930s, Bolton had long "been telling my students to keep an eye out for Drake's plate and the silver sixpence bearing the image of Queen Elizabeth."³

Among his many activities, Bolton was Grand Royal Historian of the Yerba Buena (San Francisco) Chapter of the Ancient and Honorable Order of E Clampus Vitus (ECV), a fraternal order with Gold Rush antecedents that had been revived exuberantly in 1931–1932 by lawyer and writer George Ezra Dane and others enthusiastic about preserving Western lore.⁴ ECV defines itself as dedicated to the erection of historical plaques, the protection of widows and orphans, especially the widows, and having a grand time while accomplishing these purposes. Virtually all California's male historians of the American West, historical society leaders and journal editors, bibliographers, artists, fine press printers, and collectors of Western Americana joined the group. Spoofing its own members was an accepted



Historic artifact or hoax?

The brass plate engraved with Francis Drake's claim to California became this state's greatest historic treasure when it was found and authenticated in the late 1930s. The plate would become California's greatest hoax when it was retested forty years later. In those four decades it distorted the record of Western American exploration history and acquired a complex history of its own.

The plate's makers fashioned it from commonly available brass. The body of the text was cut into the plate with a chisel-like instrument; the raised edges of the letters created by the chiseling were hammered down, then it was heated over a wood fire to create a black patina, depositing fragments of ash that were later assumed to be mineralized plant cells.

Further aging and obscuring of the sheared edges was created by hammering the edges and many parts of the surface, including the three Js to turn them into Is, presumably on the mistaken understanding that the letter J was not yet in use in Elizabethan England. Finally, the plate was darkened with dirt, ash, and/or chemicals, possibly heated again, and possibly buried for a time, to obscure the lettering and other cuts and abrasions. *Courtesy Bancroft Library.*



[Above left] Herbert Eugene Bolton, professor of American History and director of the Bancroft Library at the University of California, Berkeley, authenticated the plate when it was presented to him by the young shop clerk who found it. His wishful thinking and the investment members of the California Historical Society made in the purchase of the plate kept him from recognizing evidence that the plate was a hoax. *Courtesy Bancroft Library.*

part of Clamper fun, and the distinguished Professor Bolton was a tempting target. In this spirit, Dane organized a plot to re-create Drake's plate of brass, involving George H. Barron and a group of his friends and acquaintances.⁵

George Haviland Barron was curator of California history at San Francisco's de Young Museum until 1933 and an active member of the California Historical Society.⁶ According to Lorenz Noll, an art dealer and restorer who was part of the plot, Barron designed the new plate of brass.⁷ He borrowed most of the text from the most detailed account of Drake's circumnavigation, *The World Encompassed by Sir Francis Drake*, first published in 1628 and available in reprints in the early 1930s.⁸ With a few exceptions, he used twentieth-century phraseology and spelling,



[Above] G. Ezra Dane organized a plot to create a plate of brass. Dane was one of the leaders of the revived E Clampus Vitus, a brotherhood of Western history enthusiasts dedicated to the erection of historical plaques, the protection of widows and orphans, especially the widows, and having a good time—including numerous practical jokes. The Clampers, as they were known, were said to have been founded during the Gold Rush. *Courtesy D. Dane.*

although he substituted the letter V for the letter U in the same fashion as *The World Encompassed*.⁹ Barron, who lived in Oakland, bought a piece of one-eighth-inch-thick commercial rolled brass, apparently a few miles away at an Alameda ship chandlery, where a metal worker cut it to size on a guillotine shear.¹⁰

Who Was Sir Francis Drake?

Francis Drake, the English seaman who circumnavigated the globe in an epic voyage that began in 1577 and ended in 1580, lived in a turbulent era. The English, during the reign of Elizabeth I (1533–1603) were testing the limits of Europe's two great imperial powers, Spain and Portugal. Mariners such as Drake helped the island nation push its way into the New World and to open trade routes to Asia.

Drake was born about 1540 into a farming family that had more connections than wealth. The eldest of twelve children, he took to the sea as a boy when prospects on land proved unpromising. Mastering seafaring on rough and stormy North Sea waters, Drake earned a command in his cousin's fleet of armed trading ships attempting to break the Spanish monopoly on New World treasures.

State-sanctioned privateering raids against the Spanish whetted Drake's appetite for further adventuring. In 1577 he embarked on a secret mission with five vessels on behalf of the queen to seize Spanish treasure ships close to their source in Peru. He was then to find his way from the southeastern Pacific through the fabled (but, it would prove, nonexistent) Northwest Passage back to Europe.

Details of Drake's voyage were kept secret for more than a decade, but narratives published after his return indicate that his ship the *Golden Hind*—the only one of five that remained after two years of raiding and storms—sailed as far north as southern Oregon before turning back because of adverse winds. He found a harbor on the coast of California on June 17, 1579, landed, and repaired his ship. Following five weeks of respite, at the place now called Drakes Bay under Point Reyes, he sailed across the Pacific and the Indian Ocean, rounded Africa and landed in Plymouth, England, on September 26, 1580.



Courtesy Edward Van der Pijl

Drake's five-week encampment in California was the first English visit to the land that eventually became the United States and the first meeting between the English men and Native Americans in this country.



George Haviland Barron, curator of California history at San Francisco's de Young Museum, was one of the circle of conspirators who created the Drake plate hoax. He drafted the text for the plate and brought in a friend—George C. Clark, an inventor and art critic—to craft the fake. *California Historical Society.*

Barron's friend and neighbor George C. Clark, an inventor, art critic, and appraiser, and part of a "bohemian" artists group, designed the plate's layout and incised the lettering.¹¹ No guide lines were used, so the crudely shaped letters wander over the surface of the plate. Most of the letters are uppercase, a few are lowercase, and their style does not match Elizabethan forms.¹² An artificial patina was applied to the plate. George Clark, who created the plate, cut a capital "G" within a "C" slightly above and to the left of the name "Francis Drake." This combination has generally been read as an abbreviation for "Captian General," which was not the usual Elizabethan usage, but Clark reportedly told his wife that they were his signature, which guar-

anteed that the plate would be recognized as a practical joke.

Then one of the conspirators, most likely Dane in collaboration with Lorenz Noll and Western history author and artifact dealer Albert Dressler, who were familiar with fluorescence, labeled the plate as a Clamper prank by daubing or painting the letters ECV on the back of the plate with transparent fluorescent paint.¹³

The year in which the plate was made, and how, when and where the plate was planted are among the most obscure parts of the plate story, with conflicting evidence pointing to dates more than two years apart and to two locations. (See "When Was the Plate Created?") The story of its discovery is much clearer.

DISCOVERY—AND AN EXPENSIVE COMMITMENT

A young shop clerk named Beryle Shinn was driving on the San Rafael-San Francisco Road just north of the San Quentin-Kentfield Road crossing on a Sunday in late June or early July 1936. His car had a flat tire and he pulled over to the side of the road. He later described climbing to the top of a nearby ridge, which provided a panoramic view, and there finding the dirty plate partly covered by rock alongside a rocky outcrop.¹⁴ He carried it to his car where it remained for several months. Finally, he found it again and noticed that it had an inscription on it. He scrubbed it, revealing the date "1579." One of his friends, a part-time co-worker at Kahn's Dry Goods Store in Oakland and a student at the University of California, identified the word Drake.¹⁵ At the unidentified friend's suggestion, he took the plate to Professor Bolton in early February 1937.¹⁶

Herbert E. Bolton was sixty-seven years old and near the end of his distinguished career interpreting early California history. The sudden appearance of the plate fulfilled a dream he had long communicated to his students: to find the document that attested the beginning of English colonialism in the United States. Bolton was elated by the find, immediately accepted it as genuine, and determined to acquire it for the Bancroft Library. Fearing that Shinn would sell or auction the plate, or move it out of the state, Bolton contacted the president of the California Historical Society, Allen L. Chickering, to persuade him of the plate's importance and ask him to raise funds to purchase it.

On February 28, Bolton and Chickering took Shinn to his Greenbrae find site and, over lunch on the ferry back to Richmond, negotiated to purchase the plate. Chickering suggested that he could raise \$2,500, but he and Bolton strengthened the deal by offering to assume all risk regarding authenticity and possible legal complications. The next day, Monday, March 1, Shinn went to Bolton's office to take back the plate, ostensibly to show to an uncle, but failed to come

back to the university with it on Tuesday, Wednesday, and Thursday. By the time he returned it to Bolton and Chickering on Friday, the thoroughly concerned Chickering had raised the offer to \$3,500 and had written an acceptance of all risks of disputed ownership and possible fraud into the sales contract. The deal was completed that day, and the plate was given to the University of California.¹⁷ Bolton and Chickering had committed themselves, the donors, the historical society, and the university to the plate without subjecting it to any scientific testing. They had left themselves no recourse should the plate prove to be fraudulent.

"AUTHENTICITY . . . BEYOND ALL REASONABLE DOUBT"

Bolton was keeping university President Robert Gordon Sproul informed of developments and promised that appropriate analyses would be performed before the plate was announced to the public. The only analysis turned out to be his own comparisons of the inscription to descriptions of the plate in sixteenth-century accounts of Drake's voyage. He arranged to have the California Historical Society publish the find in a volume called *Drake's Plate of Brass: Evidence of His Visit to California in 1579*, at the same time as the public announcement at a luncheon meeting of the society to be held a mere month later, on April 6, 1937.¹⁸ He led off with, "One of the world's long-lost historical treasures apparently has been found!" and went on to an enthusiastic endorsement, leaving little room for later correction, with the statement, "The authenticity of the tablet seems to me beyond all reasonable doubt."¹⁹

Less than a week later, chauffeur William Caldeira came forward to claim that he had discovered the same plate on the Point Reyes Peninsula near the shore of Drakes Bay in western Marin County in 1933 and later discarded it more than twenty miles away near Shinn's discovery site at Greenbrae in Marin.²⁰ Drakes Bay was the long-established landing site, so Caldeira's statement gave additional

When Was the Plate Created?

No record has come to light that gives the date when the plate hoax was begun. The existing evidence supports two possibilities.

1933

The earlier possible date is the fall of 1933.

George Clark reportedly said George Haviland Barron furnished a sheet of sixteenth-century brass "from relics of an old Spanish galleon which he had at the museum, that came from Europe."¹ The plate was really made of modern brass, but Clark apparently thought Barron had brought sixteenth-century brass from the museum where he worked, which would appear to date the plate's origin to the year of Barron's retirement, 1933, or earlier.²

In November 1933, William Caldeira was chauffeur for banker Leon O. Bocqueraz, a member of the California Historical Society, who went hunting on the Laguna Ranch on the shores of Drakes Bay with Anson Stiles Blake, a prominent member of both the California Historical Society and the Society of California Pioneers.³ Bocqueraz normally had Caldeira drive the Lincoln touring car to where he would end the hunt. There, Caldeira occupied his time by wandering near the car, hunting, and collecting interesting objects that he would show Bocqueraz when he returned.⁴

Drakes Bay was (and is) the generally accepted location of Drake's 1579 encampment and careenage, so it would have been the logical place to plant the plate. Blake, an avid University of California alumnus and resident of Kensington, north of Berkeley, and Bocqueraz, who lived in Oakland, would be sure to bring such a find to the attention of historians, most likely to Bolton.

Caldeira said he found the dirty plate at the junction of two ranch roads, about three-quarters of a mile from the shore of Drakes Bay and near the place where he had parked Bocqueraz's car.⁵ Caldeira washed it in a nearby creek, then noticed that it had some lettering on it. He could make out "DRAK" but could not read more of the letters. When Bocqueraz came to his car at dusk, Caldeira showed him the plate, but it was too dark to see

well so he asked Caldeira to show it to him later at the clubhouse. Caldeira put the plate into the door pocket of the car, and both men forgot about the find.⁶

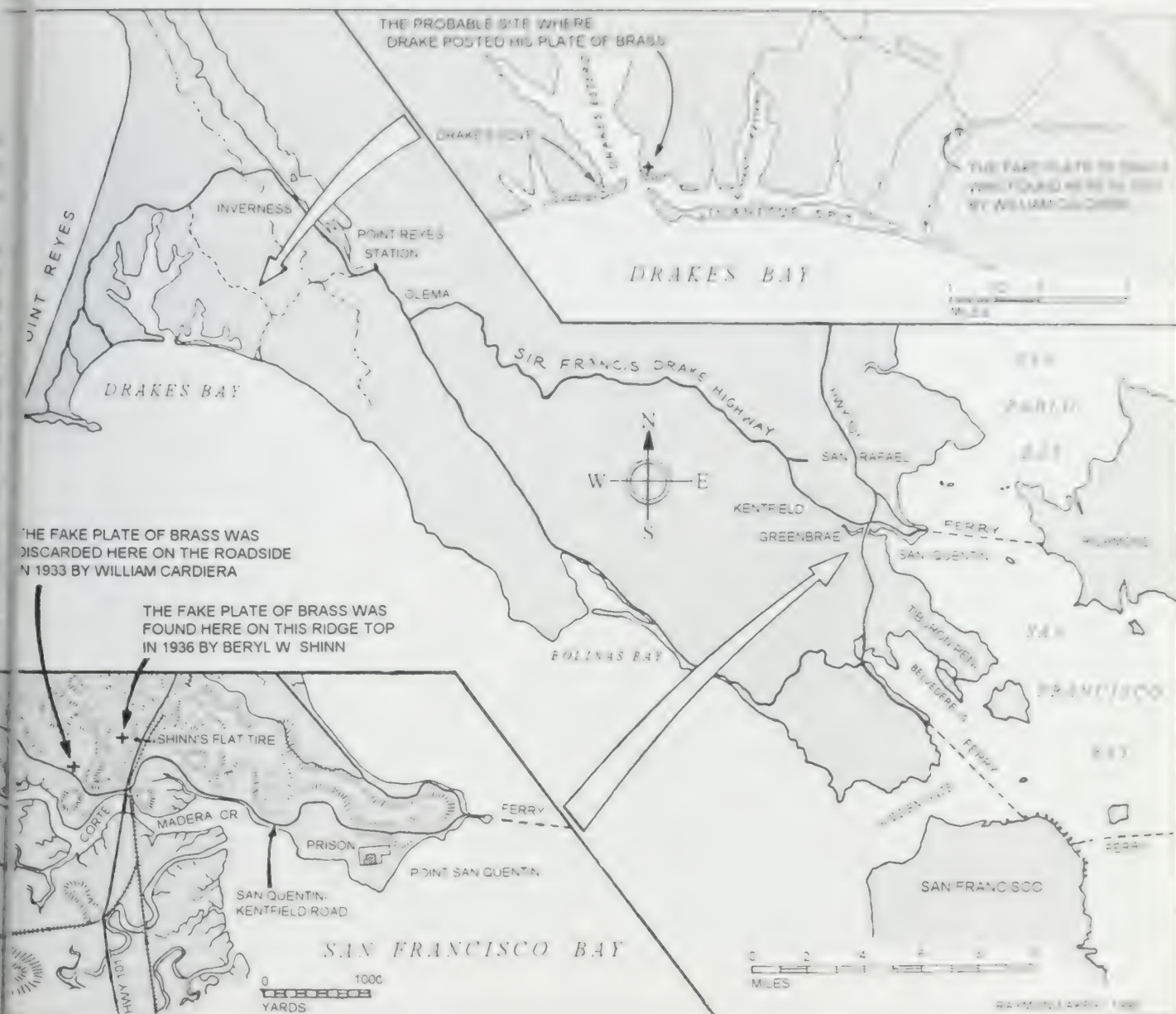
A week or two after the find, Caldeira was cleaning out the car while crossing San Francisco Bay on the Richmond-San Quentin ferry and came upon the plate. He decided it was useless and threw it out of the car on the right (north) side of the road in the first meadow just west of the junction of the San Francisco-San Rafael Road (now Highway 101) and the San Quentin-Kentfield Road.⁷

Bocqueraz moved to Europe shortly after the find and Caldeira took a new job.⁸ The plate vanished for two and a half years. However, Florence Paganetti Schattl said she had seen the plate in 1934 when her friend Thomas Parson picked it up high on the hill above the road junction and then left it there.⁹ Joseph Cattaneo said he had found the plate in about 1936 in mud alongside the road, approximately where Caldeira said he had thrown it away, then carried it to the hilltop and cached it there under some rocks.¹⁰

1936

No one doubted Caldeira's honesty, but the distance between Caldeira's roadside discard site and Shinn's hilltop rediscovery site is about three-eighths of a mile, large enough for some researchers to question whether his find was the plate later found by Shinn.¹¹ An alternative sequence of events can be reconstructed if it is assumed that whatever Caldeira found was not the existing plate. Then the date for making the plate becomes the summer of 1936.¹²

Clark reportedly said that Barron planted the plate "near the Marin shore, on the San Quentin side, near Corte Madera Creek."¹³ Another version of Clark's story is that he and Barron "placed it in a conspicuous place in the Marin countryside with a plan to lure Professor Bolton there to have him discover it. But before that could be achieved the Plate was found by Shinn."¹⁴ See page 170 for notes.



dence to the story and apparently eliminated the possibility that Shinn was involved with creating a forgery.

A TANGLED WEB

Bolton's bold public announcement of the plate's discovery may have caused initial elation among the pranksters because the plate had found its intended mark. If so, the realization that Bolton was almost

unquestioningly supporting the plate's authenticity must soon have changed jubilation to shock, and—quickly—deep concern. Their inside joke, intended to be resolved with a good laugh over a dinner table or at a Clamper meeting, had escaped from their control. Prominent persons, all of whom belonged to the small world of California-history enthusiasts, had become enmeshed in the hoax.²¹ Private could not be kept private, and public confession fraught with great peril.

At that time, G. Ezra Dane, who had instigated the hoax, was on the board of directors of the California Historical Society along with three of the donors who had contributed to the plate's purchase, including the society's president, Allen L. Chickering. Dane and another leading Clamper, Charles Camp, who was aware of the truth, were on the society's publications committee with committee chairman Douglas S. Watson, a fellow Clamper and author of "Drake and California," the chapter following Bolton's in *Drake's Plate of Brass*, and Watson clearly was not privy to the hoax.²² Another Clamper and member of Watson's committee, Lawton A. Kennedy, who was not involved with the hoax, was the printer of *Drake's Plate of Brass*. Dane also was on the publicity committee. Hoaxer George H. Barron was on the exhibitions and historic names and sites committees.

The California Historical Society had just over five hundred members, and the small number of active members at its core—including Barron, Bolton, Camp, Chickering, Dane, Kennedy, and Watson—knew each other well.²³ ECV shared many of these leaders, both those involved with the plate and those not involved. Many of them moved in the same business, academic, social, and club circles. Lifelong friendships, reputations, and even careers were in jeopardy.

For those who knew the truth and were also Clampers, the plate presented another conundrum. The revived ECV was less than a decade old, and its reputation was not well established. Although it was known for the irreverent spirit of its meetings and encampments, its leaders strove for serious scholarship for the commemorative plaques it was placing throughout the state. Exposure of Clamper involvement with the plate of brass threatened to ruin its growing reputation for accuracy in its historic plaques.

What could the pranksters do? They knew the plate was to be tested for authenticity. Could they plant enough doubt about the plate to lead Bolton to the truth—without coming forward themselves?

RUMORS, CRITICISM, AND DEFENSE

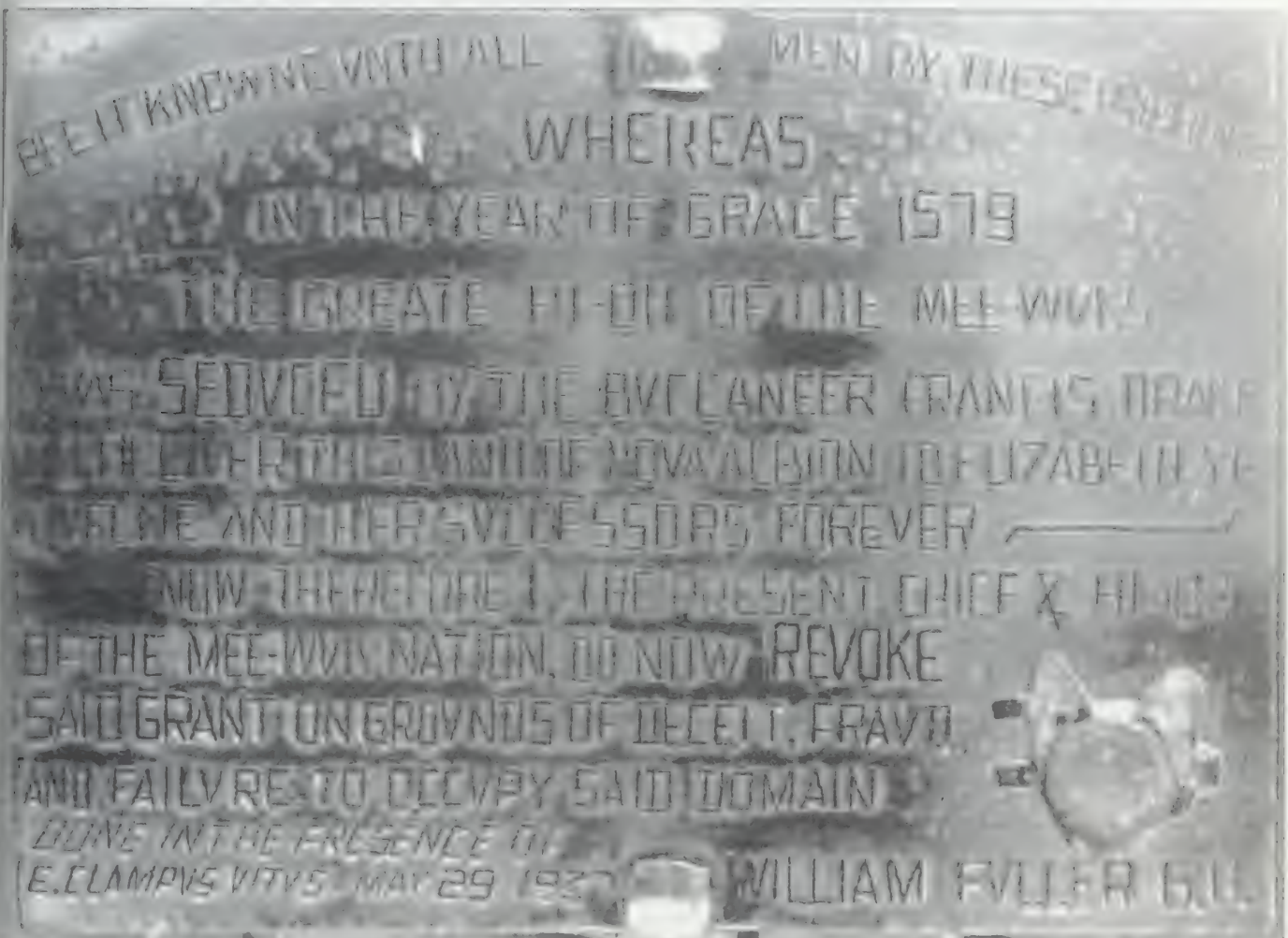
Rumors that the Drake Plate was a hoax began circulating on the Berkeley campus as soon as Professor Bolton announced the find.²⁴

That May, a mere seven weeks after the announcement, University of California at Berkeley geologist and paleontologist and prominent ECV member V. L. VanderHoof used a cold chisel as an engraving tool to easily and quickly create an inscribed brass plate with a "striking resemblance" to the "real" (Shinn) plate for a Clamper ceremony near Tuolumne City that was presided over by G. Ezra Dane.²⁵ During the festivities, Chief William Fuller of the Mi-Wuks—the Miwoks were the Native American people Drake had encountered—"revoked" the Drake claim to *Nova Albion*.²⁶ Fuller's text reads:

BEE IT KNOWNE VNTO ALL MEN BY THESE PRESENTS
WHEREAS
IN THE YEAR OF GRACE 1579
THE GREATE HI-OH OF THE MEE-WVKs
WAS SEDVCED BY THE BVCCANEER FRANCIS DRAKE
TO DELIVER THIS LAND OF NOVA ALBION TO ELIZABETH YE
QUEENE AND HER SVCCESSORS FOREVER—
NOW THEREFORE I, THE PRESENT CHIEF & HI-OH
OF THE MEE-WVK NATION, DO NOW REVOKE
SAID GRANT ON GROVNDs OF DECEIT, FRAVD,
AND FAILVRE TO OCCVPY SAID DOMAIN
DONE IN THE PRESENCE OF
E.CLAMPVS VITVS—MAY 29 1937 WILLIAM FVLLER G.H.²⁷

The creation of this revocation plate could have been seen as a warning to Bolton to check the Shinn plate with care and skepticism.

The hoaxers' campaign to discredit the plate was aided by a man not connected to the hoax, Reginald B. Haselden, curator of manuscripts at the Henry E. Huntington Library and Art Gallery and a specialist in Elizabethan literature. His September 1937 article in the *California Historical Society Quarterly*—"Is the Drake Plate of Brass Genuine?"—gave strong

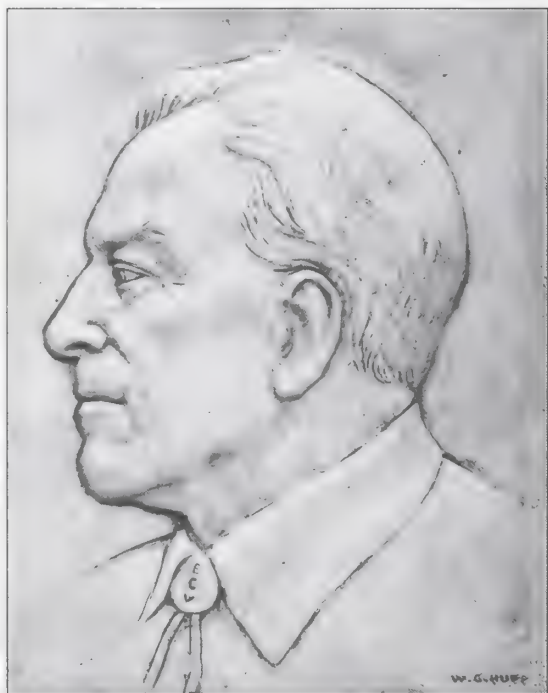


Shortly after discovery of the Drake plate was announced, Berkeley geologist and E Vitus Clampus member V. I. Vanderloof used a cold chisel as an engraving tool to easily and quickly create this inscribed brass plate with a striking resemblance to the plate found in 1936. The plate, which revokes Drake's claim to California, could have been seen as a warning to Bolton to check the Shinn plate with care and skepticism. Like *Ye Preposterous Booke of Brass*, the warning was not direct enough to deter the plate's supporters. *Courtesy James M. Spitze.*

arguments for suspending judgment on the plate's authenticity pending studies of the metal, the letter style, the way the date was written, the spelling, the "extent of erosion . . . and the effects of weathering" on the metal.²⁸

Haselden's critique was blunted in the same issue of the *Quarterly* by Allen L. Chickering's commentary about the plate's wording, spelling, letter

forms, style of the date, and coin hole—all supporting the plate's authenticity. Anticipating criticism, he pointed out that selecting suitable metallurgical tests would be difficult. He also endorsed the honesty of both Shinn and Cald mentioning that Caldeira had returned to the covery site to dig unsuccessfully for the sixpence from the coin hole.²⁹



Dr. Charles Lewis Camp, a Berkeley paleontologist and E Vitus Clampus member, published *Ye Preposterous Booke of Brasse* in 1937. Among the hints given in the booklet was a suggestion that ultraviolet and infrared light would bring out the letters ECV for E Clampus Vitus on the back of the plate. It was not tested for fluorescence until the 1990s, when a few spots of luminescence could still be found. *Courtesy Robert W. Allen.*

"AT THE SIGN OF THE GOLDEN BEHIND"

The same month Haselden's critique and Chickering's defensive commentary were published, Edwin Grabhorn of the Grabhorn Press, which published fine books on Western history, issued a letter:

Consolidated Brasse and Novelty Company
AT THE SIGN OF THE GOLDEN BEHIND—"LATE
THE BRASSE BOTTOM"
1579 DRAKE STREET, LOS ANGELES

20 September 1937

DEAR FRIEND:

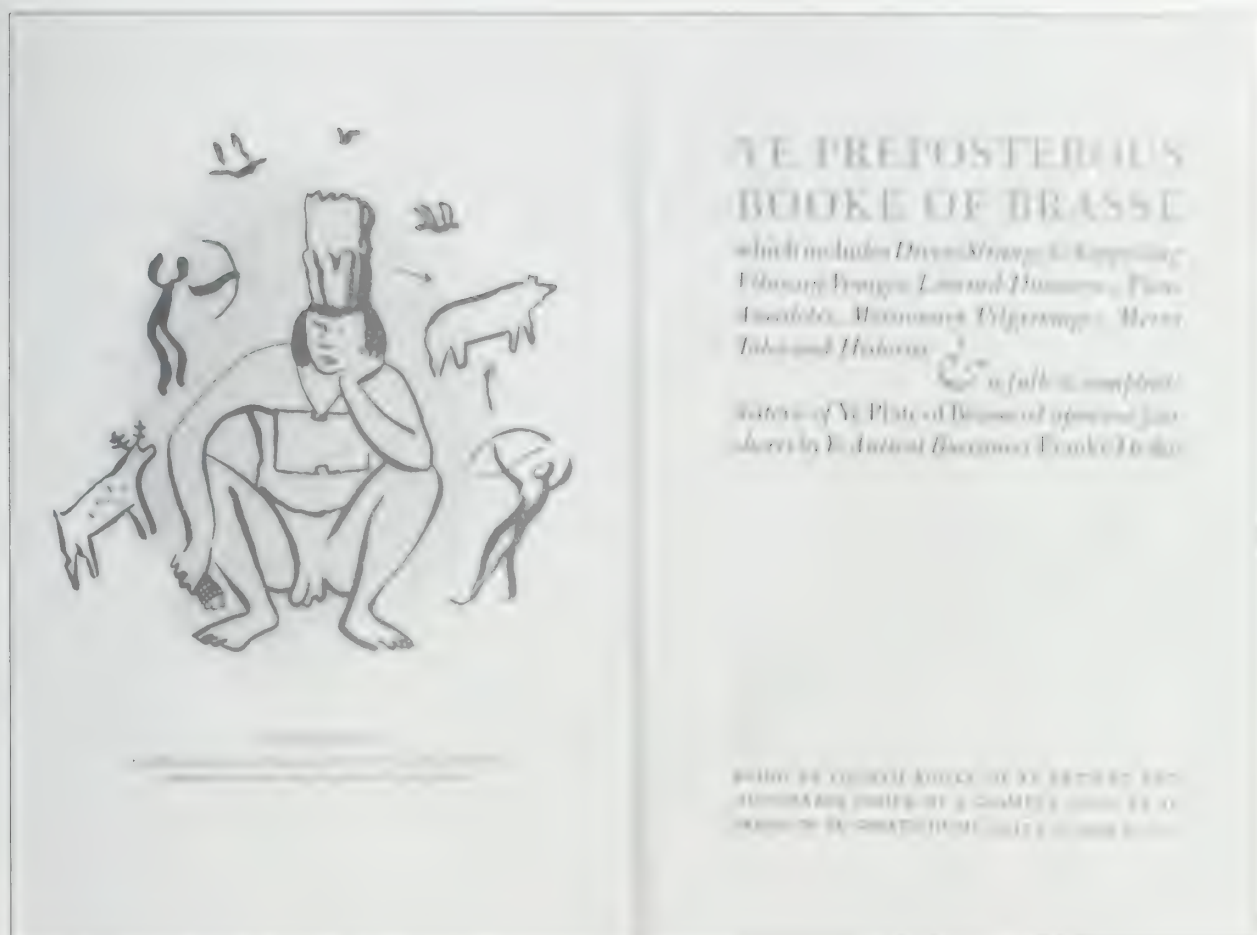
I am sure you will be interested in our special line of brass plates. These plates have a beautiful finish. We make them in all sizes and shapes and in a variety of scripts and dates. We have a very attractive Elizabethan line which we are selling at greatly reduced prices to introduce our goods. We can supply these according to size for fifty cents upwards (lead plates from twenty-five cents upwards). Do you wish to make your home-town famous? Give us a ring.

Yours very truly,
[Signed] Francis Fletcher³⁰

Grabhorn was a member of the California Historical Society and served as an officer of the Yerba Buena chapter of ECV. Grabhorn's well-known sense of humor, as shown in his suggestion that anyone could make his home town famous with a made-to-order plaque and in his word play in "Consolidated Brasse [suggesting all brassy, or phony] and Novelty [new and curious] Company" and "The Sign of the Golden Behind—"Late the Brasse Bottom"" [a play on the name of Drake's ship, the *Golden Hind*, and suggesting that the plate was still brassy despite its glowing acceptance], suggest that this letter was meant as a warning to Bolton to be cautious about the plate, rather than simply a friendly spoof of fellow Clamper Bolton's enthusiasm.³¹

A PREPOSTEROUS HISTORIE

Also in 1937, before the plate was tested, a small book was created for ECV: *Ye Preposterous Booke of Brasse*, which includes . . . a fulle & compleate historie of *Ye Plate of Brasse set upon our fair shores by Ye Antient Buccaneer Franke Drake*. The unnamed editor, and author of the ten-page chapter "Historie of *Ye Plate of Brasse*," was University of California paleontologist, Western historian, and ECV leader Dr. Charles Lewis Camp.³² While purportedly a history of the plate, this work can be read in two ways: as a light-hearted spoof aimed at a variety of named scholars, some of them ECV members like Professor Bolton, or as a warning to study the plate closely. A careful reading leaves the strong sense that it was meant as a warning.



Ye Preposterous Booke of Brasse, which includes . . . a fulle & compleate historie of Ye Plate of Brasse set upon our fair shores by Ye Antient Buccaneer Franke Drake is purportedly a history of the plate. This limited edition booklet produced by E Clampus Vitus can be read in two ways: as a spoof aimed at credulous scholars like Professor Bolton or as a warning to study the plate closely. A careful reading leaves the strong sense that it was meant as a warning. Courtesy Seaver Center for Western History Research, Natural History Museum of Los Angeles County.

The book opens with a frontispiece drawing of "Ye Greate Hi-oh," with the plate hanging across his chest. The letters "ECV" are faintly visible in white on the yellow of the plate. The text begins with some introductory humor and a reference to the plate's original location at Drakes Bay.³³ Then the tone changes, and the text provides specific clues suggesting a hoax.

The words "pure brass" are italicized and could be understood in the sense that the plate is an impu-

dent hoax, is not genuine, or that it is made of modern brass that has fewer impurities than Elizabethan brass. "Pure brass" was a common expression in the 1930s, meaning "brash" and "impudent," with the imputation of "phony." In addition, detailed technical specifications are given for the plate's metal content, which suggest that the metal is naval brass rather than common brass and invited comparison with analysis of the actual plate's metal. Then the Elizabethan word "brass" is defined as really mean-

ing "bronze," as true zinc-copper brass was not made in England at that time; only tin-copper bronze was.³⁴

The book mentions the tendency of silver and brass in contact with each other to "form a slight alloy." That suggested study of the coin hole for electrolytic corrosion, which occurs in any damp environment. Unstated, but an obvious corollary to any metallurgist, would be study of the spike holes for traces of similar iron-brass corrosion. Another line of research was suggested by pointing out the absence of the usual green patina, and the lack of pitting and decomposition of the plate's surface. The accurate description of damage to the plate's surface, as if it "had been subjected to a vigorous beating with the round end of a machinist's hammer" called for a comparison test.³⁵ Then comes a suggestion that the use of "ultra-violet fluorescence and infra-red illumination" would bring out "the faint phosphorescent outline of . . . three letters . . . E. C. V."³⁶

Finally, *Ye Preposterous Booke of Brasse* says, "we should now re-claim [the plate] as the rightful property of our ancient Order [ECV]."³⁷ This statement, combined with the preceding one about fluorescence and the letters ECV on the Hi-oh drawing, is virtually a declaration that the plate had been made by a group of Clampers.

Camp, a good friend of VanderHoof, who made the Tuolumne plate, probably was not one of the hoaxers, but had learned the truth and produced the book in an effort to alert Bolton and the investigating scientists to the fraud without harming the Clampers.³⁸ The book, printed for Camp and ECV by fellow Clamper Lawton R. Kennedy, who had printed *Drake's Plate of Brass* for the California Historical Society, was sure to be seen by Bolton and his Clamper and historical society colleagues. It was packed with more than enough clues to lead the scientific team to overwhelming evidence of a hoax. Bolton would have to admit that his identification had been wrong, but no individual pranksters would have to be identified.

DEFENSIVE TESTING

Bolton was deeply committed to the plate's authenticity and reacted to *Ye Preposterous Booke of Brasse*, and to all other critiques, by reiterating his enthusiastic support of the plate's authenticity and explaining away contrary evidence.³⁹ But University of California President Robert Gordon Sproul was becoming nervous about the plate, which he had accepted on behalf of the university. He was aware of Haselden's article sharply questioning the plate's authenticity and calling for testing and that the noted historian of exploration Henry Raup Wagner was speaking out against the plate's authenticity. Bolton assured Sproul that he was taking steps toward scientific testing, and Sproul appointed a committee, consisting of professors Bolton, J. M. Cline, and Joel H. Hildebrand, and California Historical Society President Allen L. Chickering, to arrange the tests.⁴⁰ The committee chose a prominent metallurgist, Dr. Colin G. Fink, head of the Division of Electrochemistry of Columbia University, to take charge of the work. He, in turn, brought in E. P. Polushkin, a consulting metallurgical engineer, and other specialists to conduct a series of tests lasting more than seven months.⁴¹

Fink was three thousand miles away, far from Clamper influence. He was impressed by the plate and by its historical importance, and soon took it upon himself to defend the plate's authenticity. He asked questions that could be answered by Bolton to build a defensible case. He and his colleagues used limited metallurgical tests and missed the giveaway clue of fluorescence.⁴² Fink and Polushkin submitted a report of their findings on September 16, 1938, and it was promptly published by the California Historical Society. Their report not only stated that the brass was from Drake's time, but vouched for the patina and declared, "it is our opinion that the brass plate examined by us is the genuine Drake Plate. . . ."⁴³ Like so many others, then and later, Fink, Bolton, and Chickering wanted to believe in the plate and found ways to justify their belief.

History Hoaxes, From Plates to Trunks

In each of the following hoaxes, some little known, some world famous, an object, or the rumor of an object, was used to alter generally accepted historical beliefs.

THE VIZETELLY BOOK

London engraver Henry Vizetelly admitted in his 193 autobiography, *Glances Back Through Seventy Years*, that the book he had written and published forty years prior, *Four Months in the California Gold Fields*, was a fictional account of life in Gold Rush California, and that he had never even traveled to the Golden State. Prior to the confession, the book was advertised and read as first-hand recollection of California living, written by an author who had spent time in the mines. *Four Months* inspired many of its readers to venture to California and ke a wild shot at cashing in on the glamorized Gold

THE SHROUD OF TURIN

Since its first recorded appearance in 1357 in Lirey, France, the authenticity of the Shroud of Turin has been widely debated. Passionate proponents claim that the object is either the linen cloth that wrapped the body of Christ, or merely a medieval hoax. The fourteen-foot-long cloth depicts an image resembling the tortured body of Christ.

THE KINDERHOOK PLATES

In 1843 Robert Wiley, a Kinderhook, Illinois, merchant, announced that he had unearthed a set of six brass plates with "hieroglyphic" inscriptions. Mormon leader Joseph Smith examined the plates and reported that they told the story of an ancient civilization. Later the plates were proven to be forgeries; some say the hoax was merely an attempt to embarrass and sabotage the credibility of the Mormon leader.

GOLD ROCKS

In the late 1820s Thomas Long "Peg Leg" Smith claimed that he had discovered a cluster of gold-flecked rocks in the desert near Borrego Springs, California, and spent the rest of his life spreading stories about a lost Borrego Springs gold mine. These rumors sent dozens of gold-hungry Californians on futile expeditions in search of the lost mine. An annual event is now held at the Peg Leg Monument in Anza Borrego Desert State Park commemorating Peg Leg's tall tale.

THE VINLAND MAP

More than thirty years ago Yale University announced the finding of the Vinland Map, a chart that dates from the Columbian Viking exploration of North America. From Yale's initial announcement, a hot debate has ensued over the authenticity of the map, with the controversy continuing today.

CHARLES LERAYE'S JOURNAL

In 1812 a Boston printer anonymously published *A Topographical Description of the State of Ohio, Indiana Territory, and Louisiana*, along with an appended publication, the journal of Charles LeRaye. The journal supposedly tells the true story of LeRaye's unique life, including his experience of being held in captivity by the Sioux nation. The detailed journal describes the adventurous life of this French-Canadian trader, from his capture along the Missouri River, to his safe escape in 1805. If authentic, the journal contains some of the earliest recorded information about the Western Sioux, Mandan, and Arikara people. However, many claim that the journal is a hoax and that Charles LeRaye is a fictional character. This is evident, some historians assert, by the document's inaccurate and inconsistent descriptions of the landscape and the life of American Indians in that region.

FORTY-NINER'S TRUNK

In January 1999, amateur historian Jerry Freeman claimed to have found a trunk containing historical artifacts, including shoes, a gun, and a canteen, in a desolate region of Death Valley National Park. He suggested that the trunk contained items that had been associated with a group of traveling forty-niners. Experts quickly determined that the majority of the items were from the twentieth century and that the trunk was a hoax.

GREAT DIAMOND HOAX

Imaginative prospectors Philip Arnold and John Slack deposited a bundle of diamonds in the Bank of California vault in San Francisco in 1871. As expected, the news spread, and when prominent investors came forward, Arnold and Slack orchestrated a railroad trip to a Wyoming spot where emeralds, rubies, and diamonds were scattered over the ground. With feigned regret, the former prospectors sold their interest for \$50,000 before famed geologist Clarence King inspected the site and exposed the hoax, which had been created by a \$25,000 investment in second-rate gems salted at the



E Clampus Vitus erected serious plaques to inform the general public of historical landmarks. This plaque showing Drake and his encounter with the Miwok chief was dedicated in 1950. It is posted at the old Coast Guard station on Point Reyes. *Courtesy Robert W. Allen.*

Fink and Polushkin's scientific report must have come as a second bombshell to the plate's makers. With its seemingly irrefutable proofs of the plate's authenticity, and minimal public criticism of the report, there was little the plotters could do but discuss it among themselves and a few close associates, as neither they nor their friends could muster the courage to tell the story publicly.⁴⁴ Three key insiders, George H. Barron, George C. Clark, and G. Ezra

Dane, died in the early 1940s, and the story of making the plate began to fade.

LEAVING A TRAIL

One of the insiders, however, occasionally broke the conspiracy of silence. About a decade after the plate had been found, Lorenz Noll told Albert Shumate, a San Francisco physician and California his-

Barron and long-time leader of the California Historical Society and of ECV, that the plate was a fake. Noll identified George Barron, Albert Dressler, and himself as among the four or five persons involved in creating the plate. Antiquarian book dealer Warren Howell also knew Noll's story.⁴⁵ In 1950 Noll told fellow Clampers about "Barron and Clark, et al. and the hoax plant [of] . . . a plate," which was reported in the historical newsletter *The Pony Express*.⁴⁶

Professor Bolton died in 1953, and at about that time Noll began to tell his story to a somewhat wider circle. In 1954, Drake researcher Captain Adolph S. Oko told associates that an acquaintance in the art and antique business (almost certainly Noll) told him that George H. Barron had claimed to be the plate's maker. Oko believed the plate was genuine, so he rejected the story.⁴⁷

Noll also told the story to Herbert Hamlin, editor of *The Pony Express*, who hinted in the July 1953 issue that the plate was a fake and claimed to know the maker. Hamlin persuaded Noll to dictate a statement about it, which was typed and signed on May 13, 1954. Noll named his friend George Clark and George Barron as the plate's makers, but cast himself in the role of a non-participant who had heard Clark tell of the plot in 1936. Noll also ascribed a motive to Barron: "George Barron did not like Bolton. In fact, he hated him. . . ." Hamlin, who had close ties to the Clampers, did not publish the information, although Noll obviously dictated it with the understanding that it would eventually become public.⁴⁸ Noll was the only participant to leave a memoir, so far as we know today.

Francis P. Farquhar, a prominent member of the California Historical Society and ECV, evidently also had heard of Noll's revelations. His 1956 speech about the plate to the California Historical Society and his March 1957 article in the *California Historical Society Quarterly* accepted the plate's authenticity, but mentioned, almost in passing, "there are those who claim to know that it is a forgery. One story has it that a man named Clark and the late George Barron, one-time curator of the de Young Museum, con-

spired to produce a forgery and that the plate in question is it."⁴⁹

REOPENING DEBATE—AND RETESTING

Professor Samuel Eliot Morison of Harvard University reopened the public debate about the plate's authenticity in 1974 in his highly regarded and immensely popular *The European Discovery of America, The Southern Voyages*—the culmination of a distinguished career as a nautical historian. Thirty-seven years after Reginald B. Haselden had published his suspicions, Morison reviewed Haselden's extensive unpublished correspondence with various experts. Agreeing with Haselden, Morison called the plate "a hoax perpetrated by some collegiate joker. . . ."⁵⁰ Morison's pithy conclusion once again made Drake's plate a topic of scholarly conversation, but by that time, all those involved with the plate in the 1930s were gone.

With the four hundredth anniversary of Drake's California visit approaching, and before Morison's publication, Professor James D. Hart, director of the Bancroft Library, the plate's owner, asked numerous scholars for suggestions to be incorporated into a research plan for retesting the plate. The responses led to an extensive series of rigorous analyses by specialists from various institutions and scientific disciplines, using new technology as well as old. Hart announced the results in *The Plate of Brass Reexamined* in 1977 and in a supplement in 1979.⁵¹ They reversed the 1938 findings and stated that the plate was apparently made in the twentieth century of common rolled brass. An analysis of the plate's metal composition by the Crocker Historical and Archaeological Project at the University of California at Davis in 1991 supported that conclusion.⁵² Thus, forty years after Bolton announced the discovery of the Plate of Brass, the plate was declared a hoax, but the question of the hoaxers' identities and motives was not addressed.

Clamper Carl Briggs, in his "Introduction" to the 1978 reprint of *Ye Preposterous Board of Commissioners*



Drakes Estero, the generally accepted location of Drake's landing on the California coast. The bluff on which the real plate of brass was most likely placed is on the right, but erosion has removed the posting site. *Courtesy Raymond Aker.*

claimed knowledge of the plate's maker or makers, but commented, "Clampers have been hoaxing the suckers for a long, long time and are masters of the game." Shumate was sure it was just a "prank" that got out of hand, created by a "crazy group" with no objective other than an elaborate joke at the expense of others in their circle.⁵³ There is no reason to think otherwise.

UNINTENDED CONSEQUENCES: NEGATIVE AND POSITIVE

The creation of the plate had unexpected consequences, and in the forty years between the plate's discovery and the revelation that it is a fraud, the prank gone astray had acquired a history of its own.

Much of that history is negative, a story of distortions of history, wasted energies, and needless controversy.

California's heritage was distorted when the spurious plate became a centerpiece of the 1939–1940 Golden Gate International Exposition on Treasure Island and its photograph was featured in histories, textbooks and popular magazines such as *National Geographic*.⁵⁴ Thousands of metal-foil copies are circulating around the world. One was presented to First Lady Lady Bird Johnson at the dedication of the Point Reyes National Seashore in 1966, and several were presented to Queen Elizabeth II on official occasions.⁵⁵

Shinn's find spot near the shore of San Francisco Bay cast doubt on the commonly accepted site of the

of Nova Albion, Drakes Bay, and set off a half century of public confusion about the correct location. Enthusiasts looked for Drake landing places from southern California to Alaska—despite Caldeira's account of finding the plate at Drakes Bay and despite the general scholarly acceptance of Drakes Bay as the site since the research of the U.S. Coast Survey's leading scientist and surveyor, George Davidson, in the late nineteenth century—research that continues to be officially accepted today.⁵⁶

The plate's more positive contributions include enhanced public awareness of California's explorer-a history and stimulation of a wide range of search. Caldeira's story of finding the plate at Drakes Bay inspired archaeologist Dr. Robert F. Heizer of the University of California, Berkeley, to begin archaeology in Native American shell middens at the bay in 1940. Heizer's crew discovered numerous explorers' artifacts but could not distinguish those left by Drake in 1579 from those left by the shipwreck of Sebastian Rodriguez Cermeño in 1595.⁵⁷ Others carried the work forward and, in 1980, Clarence Shangraw, senior curator of the Asian Art Museum of San Francisco, and Edward Von der Porten identified a large number of Chinese porcelain sherds from the digs as deriving from Drake's visit.⁵⁸

Heizer's work, and Caldeira's story, inspired the formation of a private research organization, the Drake Navigators Guild, in 1949.⁵⁹ In 1952, guild member Matthew P. Dillingham located the specific site of Drake's careenage and encampment at Drake's Cove, in Drakes Estero, now within the Point Reyes National Seashore.⁶⁰ Guild members also searched for the possible posting site of the real plate of brass, but found the most likely cliff-top site, overlooking Drakes Bay and Drakes Estero, had been

eroded away by the sea, as had all other likely sites.⁶¹ The real plate may now lie hidden among the rocks and sand beneath the waters of Drakes Estero.

See notes beginning on page 167.

Raymond Aker was a graduate of the California Maritime Academy and sailed as a merchant marine officer for eight years before joining the Marine Division of Westinghouse Electric Company. He was a maritime researcher with a special interest in sixteenth-century ships, navigation, and voyages. He was president of the Drake Navigators Guild, which researches the Drake voyage, from 1963 to 2003.

Educator, historical researcher, author, photographer, illustrator, and naturalist, Robert W. Allen is a founding member of the Drake Navigators Guild. He has helped unravel the tangled, sorry story of the Drake Plate of Brass hoax and has authored a number of guild publications on Drake. He continues to work to publicize the exciting story of Francis Drake's thirty-six-day stay at Drake's Bay in 1579.

James M. Spitze is a graduate of the University of California, Berkeley, an amateur historian, a book collector, a member of the California Historical Society, the Friends of the Bancroft Library, the Book Club of California, the Roxburghe Club of San Francisco, and E Clampus Vitus. He is the managing partner of a management consulting firm and raises Red Angus cattle and navel oranges on his San Joaquin Valley ranch.

Edward Von der Porten is a nautical historian, archaeologist, retired maritime museum director, educator, and writer. He directed nautical archaeological programs at Point Reyes and in Mexico. His research includes work on Henry VIII's warship Mary Rose, analysis of early Manila galleon porcelain cargos, and books about the German Navy in World War II. He is vice-president of the Drake Navigators Guild.

Ramona, I Love You

by Douglas Monroy

Love for a landscape, what we might call *topophilia*, derives not so much from how a place looks, but rather from our interactions with the place, and the stories and songs we create to record our recollections and emotions associated with the place. It is the stories that bring a landscape to life for me and make it beautiful. Beauty is never simple: for a landscape to be alive, its stories must be alive, and things that are alive are always growing and changing. Sometimes the stories change in ways that nourish our emotional longings and fears. Sometimes the stories make for a fantasy heritage that dishonestly obscures what people actually did in history, and sometimes the stories hide ugly things about what happened in the place. We all have our stories. I will tell you now my tale of love and landscape.

When I was seventeen, a senior in high school in Los Angeles, I got the family Volkswagen as a combination Christmas and birthday present. It was a '64 with those little tail lights and a 44 horsepower engine, but, more important, in it I learned my first lessons about love. Furtive sex in the back seat, you might be thinking, but no—it was just kissing and listening to small tastes of Joe Tex, Percy Sledge, Solomon Burke, and Eddie Floyd, and large quantities of the Temptations, the Rolling Stones, and their idol, Otis Redding, on the AM radio. Yes, readers, I'm referring here to Wolfman Jack's broadcasts from south of the border on station XERB. Those of you who never knew the Wolfman and XERB, skip it; you had to have been there. I can't convey in words this scene driving around Hollywood late at night listening to the Wolfman, coming to know that one's little world is neither what it seems, nor all there is in life.

These were such fabulous songs of heterosexual love and devotion. Joe Tex sang "Show Me a Man Who's Got a Good Woman" and how you need to "Hold on to What

You've Got"; Solomon Burke sang "Cry to Me"; Eddie Floyd, so full of thunder and lightening about his love that he told us how to "Knock on Wood" to keep it. But then there was nothing like the Temptations' "My Girl," and, well, when Percy Sledge came on with "When a Man Loves a Woman," it was the only time there was quiet in the car; my friends and I just called the song "Whenna," and we listened in awe. Back then I thought, in this little world of R&B love on the Volkswagen AM radio, that Otis Redding's eloquence about the need to "Try a Little Tenderness" would solve any love problems that I might encounter.

This is still the music I listen to, and I still think about love in many of these ways: I'm still awestruck as soon as "Whenna" comes on what is now the oldies station. It's just that love hasn't seemed to work out so easily and not even Otis's "Pain in My Heart" or the Stones' "Heart of Stone" have made the disappointments ok. I, and I will be presumptuous and say "we," need more metaphors about love than these precious and sublime songs provide to find satisfaction. When I say "we" here I must say right off that I speak as a heterosexual man. I won't pretend here to write about other kinds of love, though I treasure talking about love with all manner of lovers. I will say, perhaps with some presumption, that these are good songs for all of us: What can I say but that I was a heterosexual teenager when I first heard Otis Redding, the Temps, and the Stones on the AM radio in Los Angeles and thought I knew something about love.

Partly out of nostalgia for this place, for southern California, I have read and reread the magnificent novel *Ramona*. Helen Hunt Jackson, a peculiar Victorian woman from New England, moved west and became interested in California Indians. She wrote her story about the man-made catastrophe of the California Indi-

"I can't convey in words this scene driving around Hollywood late at night listening to the Wolfman, coming to know that one's little world is neither what it seems, nor all there is in life." Wolfman Jack, born Robert Weston Smith, broadcast on the powerful XERB blasting out at 250,000 watts from Tijuana from 1965 to 1971 and reaching much of North America. *Courtesy Tafcommedia, Kansas.*

s and about the tragic love of the two protagonists, Ramona and Alessandro. Through her tale I have learned a new song of love, one from 1927: "Ramona, I hear the mission bells above/ Ramona they're ringing out our song of love/ I press you, caress you, and bless the day you taught me to care/ To always remember the rambling rose you wear in your hair/ Ramona, when the day is done you'll hear my call, Ramona, we'll meet beside the water-fall / I dread the dawn when I awake to find you gone, Ramona, I need you my own."¹

I must disclose something right away because it is the absolute precondition to understanding all that I have to say in this essay: Ramona, I love you. I've read your book several times now, and I've seen the movies of you too. Not as Loretta Young or Mary Pickford do I love you and maybe not even as the beautiful and revered Dolores del Río (whose movie rendition of Ramona remains inaccessible), but as the character in the book. I only love you when I read about you.

I must say too that my love for your book character combines with a fair dose of *topophilia*, the love for our place, our southern California. This is our land, Ramona, where we were born, where flora and peoples from all over the world have replaced the indigenous plants and humans, where diverse people have mixed their love and their blood.

I know to be true several things about all this: There are so many reasons why I feel this way, and I will reveal them soon. You are worthy of all of our love, yet it is the accidental emotion to take from your great novel. When Helen Hunt Jackson wrote your book I know that she did so to call attention to the plight of your real love, Alessandro, and his peo-



ple, the Indians of Southern California. To fall in love with you is to miss the point of the story, much like simply affirming the need for the inspection of meat packing plants after reading Upton Sinclair's *The Jungle*, when, after all, he intended us to be pro-union and Socialist. This brings me to another issue that I will address shortly: What is it about humankind that they tend to misread such great novels, and, instead of being roused to action or even mere indignation, personalize the stories and respond in such narrowly self-centered ways?

Me, of all people, to confuse the meaning of the novel. I wrote a whole book detailing, with scrupulous indignation, the disgraceful and shameful destruction of the California Indians at the hands first of the Spanish and then the Americans. It criticizes *Ramona* because it "ignored the complexities of the mission and rancho periods." Many



This songsheet, which accompanied the 1927 film version of *Ramona* starring Dolores del Rio, included lyrics in Spanish, Italian, and English as well as scoring for banjo and ukulele. Its lyrics, invoking some topography other than southern California, include the exhortation to "wander out yonder o'er the hills / By a babbling brook / Where we'll find a nook / To build our own love nest." *Courtesy the Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*

ENTREPRENEURIAL FANFARE

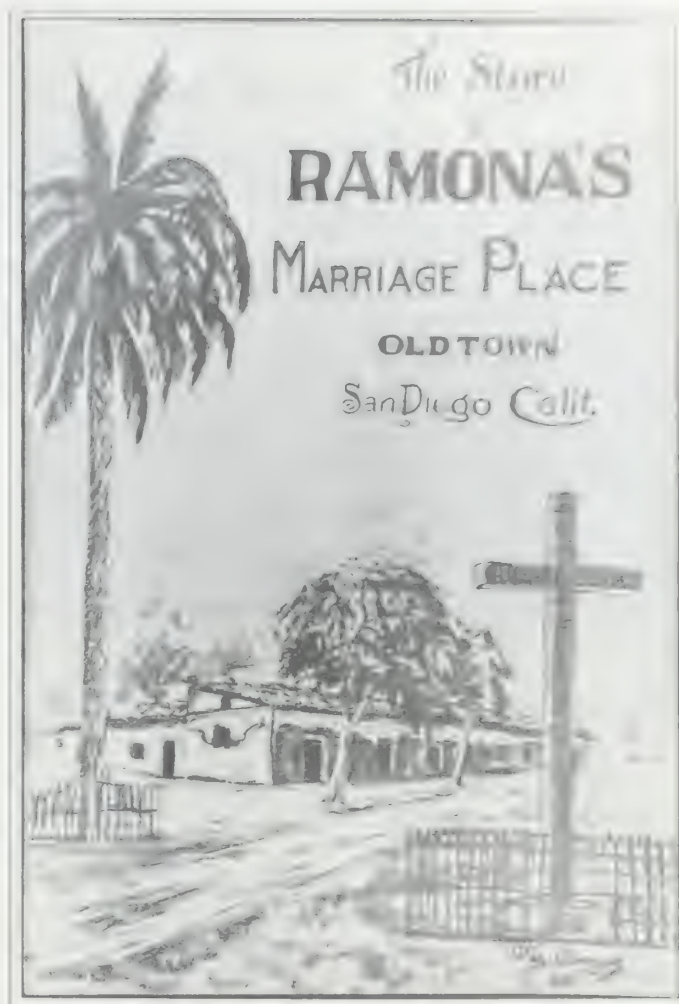
fanciful and unprincipled things said about the missions I discussed in the book's first chapter derived from the *Ramona*-esque vision in which, as I stated with disdain, "it appears that the humble and innocent Indians were treated with heavenly and blessed kindness as they received civilization."²

The writer about California that I admire the most, Carey McWilliams, doesn't much like Jackson or *Ramona* either. He wrote that the crumbling missions "exerted a potent romantic influence on Mrs. Jackson's highly susceptible nature" and that what she knew about California Indians "was second-hand and consisted, for the most part, of odds and ends of gossip, folk tales, and Mission-inspired allegories of one kind or another." "It was this novel," he concluded, "which firmly established the Mission legend in southern California," and which, in the hands of grasping and tawdry tourism boosters, instigated "a *Ramona* promotion, of fantastic proportions."³

Maybe it didn't have to be that way, though. Twenty-five years after the novel's publication a celebrant of "Ramona Country" congratulated Jackson on her research and attested to her portrayal of the Indians' plight as "a work of essential truth." "She saw scattered Indians, like sheep without a shepherd, worried and pillaged by wolfish Americans, driven from house and home, abused, lied to, vitiated, corrupted and cursed by the white race," George Wharton James affirmed in 1909.⁴

But yes, it probably is true what McWilliams said about *Ramona* and the mission legend in California. James also rhapsodized about how "the loving power the Franciscans held over the Indians was well understood by Mrs. Jackson," and how "*Ramona*, in its references to Missions and padres, is so true to life, so true to their spirit, that it can be used as an auxiliary textbook with great advantage to those who wish to gain a true conception of the Franciscans and their work." In her *California and the Missions* Jackson cites the "verbal testimony" of "old Indians who recollect the mission times in the height of their glory. Their faces kindle with a sad flicker of recollected happiness, as they tell of the days when they had all they wanted to eat, the *padres* were so

This promotional booklet encourages travelers to experience the romance of Old San Diego. It advertises Old Town as "the beginning of all California," the place where Junipero Serra planted the cross in 1769, the place where General Frémont planted the flag in 1846, and the place where the fictional characters Ramona and Alessandro married. Helen Hunt Jackson, the booklet claims, was a heroine who saved Old San Diego from being "forgotten and unnoticed" by weaving it into the setting of her novel. The booklet cites the public's reactions to visiting "Ramona's Marriage Place," including one poet who carved into a redwood slab a poem to Ramona: "The moon and stars may fade, like love of fickle jade; / It matters not so long as I have thee." *California Historical Society, FN 35192.*



ood and kind."⁵ *Ramona* really is, then, a combination of outrage over the treatment of the Indians, the sentiments of a "California Pastoral," the fables of the missions, the white woman's burden, and a spectacular and tragic love story. Strong and compelling stuff indeed.

It was out of this entrepreneurial fanfare that came the desecration of the beautiful Ramona and the transmutation of Jackson's intended message. Ramona's and Alessandro's wedding place—unlike other locations in the novel, entirely fictional—came to be located at the run-down Casa Estudillo in old town San Diego through a combination of popular lore and the efforts of the owners of the Hotel del Coronado around 1910. As it is still presented, as it was displayed in the picture postcards with the recently planted palm trees and imported agapanthus from Africa and the begonias from South America in its garden, "Ramona's Marriage Place" has spoiled, if not blasphemed, Ramona's and Alessandro's love.⁶

Then, too, there are such matters as the controversy over the ersatz "Home of Ramona" that diverted people away from the novel's intent. There can be little doubt but that the Rancho Camulos, between Ventura and San Fernando and home of the

del Valle family when Jackson visited it briefly in 1882, served as the model for Señora Moreno's fictional house, the one in which Ramona was raised. Yet, in the decades after the publication of the novel, Rancho Guajome, indeed closer to Mission San Luis Rey that figured importantly in the lives of Alessandro's people, became "Ramona's Home" once land developers and nostalgia marketers found the story useful. The boosters even insinuated that Helen Hunt Jackson wrote *Ramona* there, when in fact she wrote the whole thing in the Berkeley Hotel in New York City. Real estate developers and railroad companies captured the story of Ramona and used the compelling myths it contained about the halcyon days of old California to sell house plots and train tickets to newcomers. Thus it was that uprooted from the Midwest could find rooted



Land developers and nostalgia marketers used Ramona's story to sell everything from real estate plots to produce. That the tale was one of land appropriation and loss of livelihood did not seem to matter—the romance was what appealed to consumers. *Courtesy the Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*

in California as they adopted the captivating myths of the new place, stories that *Ramona* helped generate. To this day developers use whimsical Spanish names with faux Mediterranean architecture that recall Californio society to sell real estate. Thus it was that the Americans came to venerate the Californios, even emulate the unreal lifeways of these people whom they had only recently displaced from the landscape. The nostalgia myths consequently work to transform the landscape even further—to make southern California even less like the way it was before the Americans came or like the southern California Helen Hunt Jackson invented.⁷

I have taken visitors to all of these places. The missions San Luis Rey and San Diego, Old Town San Diego with Ramona's "Marriage Place," Rancho Camulos where we dined outside surrounded by orange groves and palm trees, even the recently sprouted wineries of Alessandro's bygone domain of Temecula all enchanted them. I told them a little about what really happened at all of these places, about the paradoxes and contradictions of the story of Ramona, and about all of the undocumented Mexicans who these days do the work that the Indians did in the novel. I couldn't bring myself to sully the legend too much, however. Or maybe there was something in me such that I just didn't *want* to spoil it—for them or for me. These make-believe images

were once popularized by millions of postcard printed for both tourists and potential real estate customers. The cards of the "Marriage Place" and other Ramona locales that I acquired in antique stores have rather reverentially placed in a display book. My *topophilia* waxes maudlin and profound: I wish I lived there.

I have, in other words, tried to dispel the myth in one place—*Thrown among Strangers*—yet perpetuated it in others and then reveled in it as I imagined myself living in this foolish fantasy of halcyon days gone by. (Anyway, I could not take care of such a home and garden by myself any more than Señora Moreno could take care of hers without a squad of gardeners—then Indians, now illegal Mexicans. And it was such hired help—which will become clear shortly—that started all the trouble in *Ramona*.) Certainly, Ramona's tale is one of myriad enticements. Mostly, people have understood and used the story and its characters in ways that have much more to do with their emotional, economic, and social purposes than with anything Jackson intended.

An old tourist brochure, "The Story of Ramona's Marriage Place," stumbles deafly and insularly upon this matter:

Yet all this [meaning old California] would be forgotten and unnoticed . . . were it not for the fact that way back in 1884, that charming and gifted woman, Helen Hunt Jackson, gathered in southern California, the material around which she wove, *Ramona*, a story so beautiful, and so throbbing with love and life and sympathy, that it sent a thrill around the reading world.⁸

he tourist tract has no mention of that which was Jackson's point, the outrages against the Indians, but reminds us of the potency of love stories, of stories in general, and their power to keep both the glory and the seamy underside of the past before us.

LANDSCAPE OF FIRE AND BLOOD

Living in the actual story Jackson told in *Ramona* would be terrible. She meant to make us sick to our stomachs and angry over the treatment of the ex-mission Indians of southern California and to make us understand the lawlessness of the Americans and their occupation of California. Alessandro tells how "I have no home; my father is dead; my people are driven out of their village. I am only a beggar now." (171)⁹ He understands that the perpetrators were

Americans—eight or ten of them. They all got together and brought a suit, they call it, up in San Francisco; and it was decided in court that they owned all our land. That was all Mr. Rothsaker could tell about it. It was the law, he said, and nobody could go against the law. (172)

And "He said the judge had said he must take enough of our cattle and horses to pay for all it had cost for the suit. . . ." (173) Alessandro concludes with the drastic prediction that "These Americans will destroy us all. I do not know but they will presently begin to shoot us and poison us, to get us all out of the country, as they do the rabbits and the gophers." (178) And that is exactly what happened, in the novel and in real life.

Jackson, of New England Protestant stock, minced no words in her condemnation of the Americans. She has the gentle and guileless Ramona say:

There is no hope. They have power, and great riches. . . . Money is all that they think of. To get money, they will commit any crime, even murder. Every day there comes the news of their murdering each other for gold. Mexicans kill each other only for hate, Alessandro,—for hate, or in anger; never for gold. (230)

Indeed, if Helen Hunt Jackson is to be believed, her country people acted like lawless, murdering thieves

in their treatment of the Indians of southern California. And this is something which the historical record quite utterly bears out.¹⁰

Jackson contrasts the Americans with Ramona and Alessandro and describes the interior of their humble household in the Indian village of San Pasquale: "Below [Ramona's statuette of the Madonna] hung her gold rosary and the ivory Christ; and many a woman of the village, when she came to see Ramona, asked permission to go into the bedroom and say her prayers there." And "with the money from the first sheep-shearing, and from the sale of part of his cattle, Alessandro had bought all he needed in the way of farming implements,—a good wagon and harnesses, and a plough." (241–242) The Indian and his half-breed spouse are the good Christian plowman and housewife; in fact, it was a model Victorian marriage. But into this paradise came the news:

The Doctor said the land did not belong to Ysidro [the Indian captain who had let them farm on land at San Pasquale] at all, but to the United States Government; and that he had paid the money for it to the agents in Los Angeles, and there would very soon come papers from Washington, to show that it was his. (248)

Then another man would come:

Alessandro had not been plowing more than an hour, when hearing a strange sound, he looked up and saw a man unloading lumber a few rods off. . . . Presently he came toward him, and said roughly, "Look here! Be off, will you? This is my land. I'm going to build a house here. . . . I've got my family in San Diego, and I want to get them settled as soon as I can. My wife won't feel comfortable till she's in her own house." (254–255)

The frenzied Alessandro (who knew these Americans by now—people simply of "fraud and cruelty"), his grief-stricken wife, and his baby child simply left. (230)

A conceited, vicious, and revealing reversal had transpired in the Southwest at this time about family values. That the indigenous peoples of the area—be they pagans or papists—would be civilized provided important justification for Manifest Des-

tiny, which included the taking of the Indians' ancestral lands. The curious thing, though, was that so many Mexicans—and California ex-mission and New Mexican Puebloan Indians—lived as Christian farmers while Anglo-American men drank, whored, and brawled. Recall that Ramona and Alessandro had been married in a church; that when he found transgressors in his dead father's house Alessandro "felt for his knife," thought of Ramona, and "thoughts of vengeance fled" (208); and that they obeyed "the law" when they were evicted from their lands. The footloose and seedy American Jake said to Ramona "It is but a poor place he [Alessandro] gives you to live in" and, understanding that a "squaw wife" was "first-rate about a house, and jest's faithful's dogs," asks her to live with him. Ramona "faced him, her eyes like javelins. . . . 'Beast!' she said, and spat towards him." (298–299) Of course, it would be the Americans' promiscuous resort to guns and brutal, extra-legal violence in the cause of family and property that would bring the catastrophic end to the majestic romance of Ramona and Alessandro. It's not just love for Ramona that I have associated with southern California, but the pain and suffering of Alessandro's people that will forever and indelibly haunt the landscape. This is how history, my favorite subject in school, so confuses my sense of the putatively impassive, actually complicated, landscape. There is beauty and love there—and fire and blood. After you read *Ramona* you can feel the immensity of the ambiguity of this distress in the hills and valleys of the place.

There is one good American. She is Aunt Ri, whose deep Tennessee drawl hid "a certain gentle dignity." (273) Ramona and Alessandro transform her attitudes about Indians and Mexicans. Through her Jackson castigates Americans and their government: "'We're Ummerikens! 'n' we wouldn't cheat nobody, not ef we knowed it, not out er a doller. We're pore, an' I allus expect to be, but we're above cheatin'; an' I tell you naow, the Ummeriken people don't want any o' this cheatin' done, naow!' cried Aunt Ri." (282) The crusty old woman rages at the lawlessness of the Americans when she heard tell of Ramona's and Alessandro's displacement: "'Why,

they take folks up, 'n' penetentiarize 'em fur life back'n Tennessee, fur things thet ain't so bad's thet!'" (281) Becoming devoted to Ramona, Aunt Ri nurses her back to health after Ramona's breakdown following Alessandro's calamitous death, and she does so with the herb she calls "old man": "'I knowed I smelt the bitter on't somewhars along hyar,' and in a few minutes more she had a mass of the soft, shining, gray, feathery leaves in her hands. . . . 'This'll cure her, ef ennything will,' she said." (328) The one good American turns out to be a *curandera*, an Indian of sorts.

It is, upon reflection, quite remarkable how critical of American government and settlers Helen Hunt Jackson's *Ramona* actually is. The American novel in print for the longest uninterrupted time is scathingly critical of the American mission in the Southwest. I cannot resist pointing out the obvious hypocrisy Jackson reveals in the American character when she points out the greed and meanness of Anglo families who displace the Indians and the horrible consequences of Americans' ready resort to guns to settle their matters. Then, too, it is quite apparent that Jackson, through Aunt Ri, affirms those other American values of respect for equality of opportunity, compassion for those less fortunate, and equal justice under law. It is these issues that Jackson intended that her readers confront, not that they should fall in love with her main character.

"THESE CROSSES"

Helen Hunt Jackson constructed Ramona's lineage to suit the needs of a tragic novel and not for historical credibility. She was not a real Californio like her adoptive mother, but the product of a dissolute Scottish sea captain—whose heart had been broken by an elder sister (named Ramona) of Señora Moreno—and a "squaw" of the Mission San Gabriel, already mother to several Indian children, whom he later married. When he sought a more appropriate home for their new baby he gave it to Señora Moreno's sister—his long-forsaken love—and then, as she in turn was dying, convinced Señora Moreno to agree to take care of the child: "This promise came



Alessandro (Warner Baxter) kisses Ramona (Dolores del Río) as she sleeps in the 1927 filmed version of *Ramona*, one of at three movies made of the classic love story. When Alessandro and Ramona exchanged their first kiss, they heard "the Señora's step, and her sharp cry of amazement . . . looking at them with her indignant, terrible eyes." (121) *Courtesy Charles Von der Ahe Library, Loyola Marymount University.*

hard from Señora Moreno. Except for Father Salvierderra's influence, she had not given it. . . . 'If the child were pure Indian, I would like it better,' she said. 'I like not these crosses. It is the worst, and not the best, that remains.'" (32) "And this was the mystery of Ramona. No wonder the Señora Moreno never told the story. No wonder, perhaps, that she never loved the child." (33)

Yet, "no one would have known, from Ramona's face, manner, or habitual conduct that she had ever

experienced sorrow or had a care . . . and she never was seen to pass a human being without a cheerful greeting." (36) Except for her adoptive mother, everyone loved Ramona, "for a gentler, sweeter maiden never drew breath than this same Ramona, who been all these years, save for Felipe [Señora Moreno's natural born son], lonely in the Señora Moreno's house." (90) She is the uncomplaining woman, a rather standard fantasy figure for many men.

Ramona's beauty is a bit too racialized not to be suspect. "She had just enough of olive tint in her complexion to underlie and enrich her skin without making it too swarthy," Jackson explained. That "her hair was like her Indian mother's, heavy and black, but her eyes were like her father's, steel-blue," (40) makes one wonder about what colors and features qualify one for beauty. Would everyone

have loved Ramona as much had she looked other wise? If her father had been a Mexican or a Spaniard instead of a Scot, she would just be another mestizo or another Mexican. Would her American audience still be so enthralled with her character?

I suspect not, because Americans always constructed things in nineteenth-century California as "Spanish" if positive and "Mexican" if negative



John T. Prince as a very Hollywood Father Salvierderra ministers to Ramona (Dolores del Rio). A 1909 admirer of the novel noted that "the loving power the Franciscans held over the Indians was well understood by Mrs. Jackson," and how "*Ramona*, in its references to Missions and padres, is so true to life, so true to their spirit, that it can be used as an auxiliary textbook with great advantage to those who wish to gain a true conception of the Franciscans and their work." *Courtesy Charles Von der Ahe Library, Loyola Marymount University.*

Ramona is neither, though culturally she is certainly Californio having been raised by the Señora Moreno. She is Europeanized and, in her case, her mysterious Indian origin only serves to exoticize her. Ramona is beautiful, strange, devoted, and uncomplaining—what more could a man want?

There is much facetiousness in my critique of Ramona here, an amusing aside that might explain something of why I love Ramona: I am just like she was. While I don't have the blue eyes of my mother, I certainly have her straight Yankee nose. Ramona and I could move in several groups and feel accepted. When we go to *El Mercado* in Boyle Heights or to *mariscos* restaurants around Vermont and Sunset people speak to us in Spanish and we respond in kind. When we go to the beach or to a chic seafood restaurant at the west end of Sunset Boulevard we become Mediterranean, apparently (and actually) prosperous enough to afford dinner and wine and the time and travel to sport a nice tan. Ramona and I could go most anywhere this way; we would enjoy together the impudent privilege of passing.

California, I would say, more than any place else in the world, is not just about ethnic and racial identity, but about mixing. Californians affirm their ethnic group and associate their politics and identity with their modern tribe. Yet, really Ramona and I are the true and increasingly typical Californians—mixes, or, as Señora Moreno would call us, "these crosses." Everywhere I go I notice the various crosses, the ones from the previous generations of immigrants to California, the ones I imagine will be most unlikely to deprecate others or fall prey to political demagoguery that exploits issues of race or country of origin. We know how much race, religion, "looks," occupation, and language and accents, are matters of happenstance and irony. The critique of her is too facile; maybe Ramona really is the true, and best, Californian.

And California is about the mutable self, and about passing. People often come to the place to reinvent themselves. Ramona herself changes from Californio to Indian and then finally to Mexican. Of all things, many *americanos* have recast themselves as Spanish Californios—never Mexicans—and assume

an air of nobility at the old Fiesta Days and Missions Days, carried on most famously in Santa Barbara to this very day. Mexican Americans in the 1930s insisted to the Census Bureau that they be counted as white, and the category "Mexican" indeed disappeared in the 1940 census. Now, of course, we have become "Hispanic," something that Ramona never was.

PERFECT MAN, PERFECT VICTIM

Alessandro is likewise a fantasy figure for Victorian women. Much like Harriet Beecher Stowe's Uncle Tom, Alessandro is not simply the tamed Indian but a domesticated man. "Alessandro had inherited his father's love and talent for music, and knew all the old Mission music by heart." When he sang a hymn to "Beautiful Queen,/ Princess of Heaven . . . Ramona felt every note of it penetrating her consciousness with a subtle thrill almost like pain." (51–52) Again, resembling the Victorian domestic ideal in which men were to be more like women—religious, sensitive, refined, and virtuous—Alessandro "plays the violin beautifully. . . . He plays the old San Luis Rey music." (56) When Felipe faints and falls into the huge wool bag, from which Alessandro rescues him, he is forced into bed and appears incapable of recovery. Alessandro tends to him with music and builds him a bed that he places on the veranda in the sunshine. Much as a Victorian woman would do, his tenderness and caring effected Felipe's cure, a scene reminiscent of Jane Eyre ministering to Rochester in Charlotte Brontë's great novel.

"Whenever there were troubles with the whites, or rumors of them, he went from house to house, urging, persuading, commanding his people to keep the peace," Jackson explained. "At one time when there was an insurrection of some of the Indian tribes further south, and for a few days it looked as if there would be a general Indian war, he removed the greater part of his band . . . to Los Angeles, and camped there for several days, that they might be identified with the whites in case hostilities became serious," she continued. (53–54) It's not simply that Alessandro is a sell-out—taking care of the Cali-

The American Indian Alessandro was a fantasy figure for Victorian women, resembling the domestic ideal in which men were religious, sensitive, refined, and virtuous. Indeed fantasy figures, needless to say, neither Alessandro nor Ramona portrayed in a 1940s Ramona Pageant in Hemet wear clothing typical of the Luiseño Indians of southern California nor are the principal actors American Indian or Mexican American. The pageant did and still does capture the romance of the classic love story, however. *Courtesy the Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*



fornio Felipe or capitulating to the Americans—but rather, in her effort to make of him the perfect man and thus the perfect victim, Jackson has created the ideal domesticated Victorian man, or, as Carey McWilliams put it, she “invested (him and the Mission Indians) with the sentiments of a New England school marm.”¹¹ Alessandro’s virtues are those of the female Victorian world: sensibility (understood as knowing through the senses), nurturance, self-sacrifice, and service to others. This is not to deny Jackson’s and Stowe’s contribution to what made for “a good Indian” and “a good Negro” in the minds of liberal whites: People who sought amelioration of their oppressed status through acceptance of the value system and leadership of enlightened Anglo-Protestants.

Oddly enough, Alessandro got to where he was not through Victorian school marms, but through other Christians in robes, namely Franciscan priests who were next in line for re-creation in the Victorian female mold: “His father, Chief Pablo,” Jackson related, “had been the leader of the choir at the San Luis Rey Mission in the last years of its splendor.” “Father Peyri was passionately fond of music, and spared no pains in training all of the neophytes under his charge who showed any special talent in that direction,” she supposed. (51) Later writers would assume that “The devotion of the San Luis Rey Indians to Padre Peyri is truthfully told in Ramona. They would do anything for him. . . .” Actually, Father Antonio Father Peyri, the true scion of the mission wrote on Christmas Day 1828 regard-

ing the disease and demoralization at San Luis Rey that "apathy reigns among the Indians."¹²

Jackson described the missions as the "most profoundly melancholy in all southern California." here

the grand old [of course] Franciscan, Padre Junipero Serra, began his work [actually he began missionizing in the interior of Mexico and Baja California long before], full of devout and ardent purpose to reclaim the wilderness and its peoples to his country and his Church. . . . And the only traces now remaining of his heroic labors and hard-won successes were a pile of crumbling ruins. . . . (224)

It is in this spirit," G. W. James said, "she looked upon all the work of the Franciscans that was noble, self-denying, self-sacrificing, heroic."¹³ Surely, Jackson's fantasies about the missionaries—obviously he is construing them as ideal typical Victorian women—mark a disservice to history and an abuse of the Indian cultures the missions sought to eradicate. Perhaps this commentary relates to a passage that refers to Señora Moreno, but which might reveal Mrs. Jackson's aspirations for the proper relation of indigenous and colored peoples to Euro-Christians: that a handful of Indians might once more confess their sins to a Franciscan monk in the Moreno chapel." (26)

I understand and accept as injurious this construction of Ramona's womanhood; and, anyway, I'm not about to have Protestant Victorians tell me now to be a man. My views about the California missions and my doubts about religious belief should be becoming apparent. Indeed, if there is a place in my soul for spirituality, it is for the localized and polytheistic notions associated with the Indians of the Americas, the very ones those Spanish missions sought to eliminate. I would like Alessandro, my rival, more if he had remained a pagan. Californio society was cruel to the Indians on the ranchos—though not as much so as the missions had been or the Americans would be—and warred constantly and viciously against those outside the mission system. And I am aware of the selective appropriation of the Ramona story by Anglo Americans. They only take what is gratify-

ing and ignore that which would complicate their tenure on the land of southern California. I still love Ramona.

SITTING ON SEÑORA'S VERANDA

Surely part of the reason I still love Ramona is the nostalgia that I feel for nineteenth-century California as Jackson envisioned it: "The Señora Moreno's house was one of the best specimens to be found in California of the representative house of the half barbaric, half elegant, wholly generous and free-handed life led there by the Mexican men and women of degree. . . ." (15) There are descriptions of the "wide veranda on three sides of the inner court" of the house where "babies slept, were washed, sat in the dirt, and played, . . ." where "women said their prayers, took their naps, and wove their lace, . . ." where "herdsmen and shepherds smoked (and) lounged, . . ." where "the young made love, and the old dozed. . . ." (18) Beyond the house

all was garden, orange grove, and almond orchard; the orange grove always green, never without snowy bloom or golden fruit; the garden never without flowers summer or winter. . . . Nothing was to be seen but verdure or bloom or fruit, at whatever time of year you sat on the Señora's south veranda.

A curious sensation is this nostalgia for a place that never existed.

The Californio mythology has already received considerable debunking here and other places, but I cannot resist pointing out how important the word "sat" is here. Indeed Californios "of degree" would have sat while Indians, addicted to the alcohol with which they were often paid for their labors, tended all that lush verdure, except that such verdancy didn't exist because this was a cattle economy until the droughts of the early 1860s, and citrus only began to be cultivated in the mid-1870s. People sat nastily fussing about, realistically fearing, and then later savagely fighting the rancho Indians' untamed brethren; and, consistent through the hot, dusty summers and sometimes muddy winters they would have sat suffering the fleas,

which one British traveler called "decidedly the best lodged, and, as we found to our cost, not the worst fed denizens of California."¹⁴ Everyone of degree sat, except for the women who were doing all the housework.

As Jackson describes it, it would be a good place to live, though not if you were an Indian, which reminds us how often *topophilia* requires selective memory. It's a curious thing about southern California today that many of the rich, and there are lots of them, sit in their lush gardens, which have incredibly luxuriant foliage, which undocumented Mexicans tend; sit at high-paying jobs while Mexican women take care of their children; sit at dinner parties routinely fussing about how Mexicans are taking over their Arcadia; and, while flea collars and chemical bombs have reduced the flea problem, sit and complain about the heat, smog, and possibility of earthquake. People have long been compelled to create little paradises in Los Angeles: the Huntington Gardens, the Rose Garden in Exposition Park near the Natural History Museum downtown, Descanso Gardens, and the once beautifully maintained Fern Dell in Griffith Park. I went to most of these places as a child on class field trips, when we fled school, the place I first learned about missions, Indians, and ranchos. I also went to Fern Dell in that family Volkswagen with the Wolfman on, to park and to kiss—in the midnight hour. These remain all good places to sit. And to kiss, as if one were on the veranda at *Ramona's* house.

Ramona's places are usually analyzed in terms of Anglophone Los Angeles. "'Nostalgia,'" William McClung points out in his discussion of *Ramona*, "which in its root sense means yearning not for another *time* but for another *place*, is actually another word for 'homesickness'; Anglo Los Angeles was largely an effort to satisfy that yearning by building the imaginary home."¹⁵ Yes, indeed, Anglo migrants to southern California have found in the landscape and story of *Ramona* a sense of place and a history to connect them to their new land.

Few, though, are aware of how *Ramona* gives form to some of the *plática* of Mexican southern California. There are stories passed down—what McWill-

iams called the "odds and ends of gossip, folk tale and Mission-inspired allegories"—about how Mexicans once owned the land, of how they were often lumped with the Indians and cheated of their land of those Indians who once came down from the hills to work, of the haughtiness, deceit, and meanness of the Americanos. In 1927 Adalberto Elías González's stage adaptation of *Ramona* broke box office records in Los Angeles, where it was performed in Spanish. It then toured throughout the Southwest and sometimes featured the great, talented, and beautiful Virginia Fábregas. The United Artists production of *Ramona* starring the elegant Dolores del Río opened in downtown Los Angeles in 1928. That year *La Opinión*, the Mexican newspaper in L.A., called her "*nuestra estrella máxima de la pantalla*" (our brightest star of the screen).¹⁶ *Ramona* is the Mexicans' story too, one that was well-known to them. Indeed it is the only piece of classic American literature to feature Mexicans.

Why have Mexican women so adored *Ramona*? Many have commented that "*la gente mexicana tiene tres madres*." The first is the Virgin of Guadalupe, the virginal, forgiving, mestiza goddess; the second is Malinche, the mistress of Cortés, once called "*la puta*," the whore, but now seen in the same complex ways that we see the virginal *Ramona*; and the third is *La Llorona*, the wailing woman who searches for the children she has killed after her husband wronged her. Too passionate and in love with a man for virgin status, *Ramona* resonates with the wronged women of Mexican society and culture. While her persecutors are Señora Moreno and the Americano men and not Mexican patriarchs, *Ramona* suffers with fortitude her victimization as her culture told women to do, and she courageously rebels against it. Twice she flees her oppressive homes and twice (!) she marries a good man. Not only do men like me love *Ramona*, but women who experience the constraints of traditional, hierarchical cultures like that of the Californios will also identify with *Ramona* and yearn for the passion she first experienced with Alessandro and then the deliverance she reaped when she escaped with Felipe.



"No novel of strong purpose can be pure fiction. It is to mould fact, it must deal with fact" begins the introduction to an 1888 illustrated guide to Rancho Camulos in Ventura County published by Charles F. Lummis & Co. in Los Angeles. The promotional booklet, hand-tied with a rose-colored ribbon, advertises the Rancho as the place that *Ramona* was based upon. It contains several cyanotype images, such as the one featured here, of the placita, the south veranda, the bells, and even the torn altar cloth. Each image is coupled with text from *Ramona*, and notes from the booklet's publisher.
California Historical Society, FN 35190 and 35191.

RAMONA'S PAGEANT

You can tell how the story lives if you go to the Ramona Pageant in the distant and desolate town of Hemet. It's a scene very different from Sunset Boulevard, one where I felt quite out of place, at first. There is some mix of people there, mostly Anglos but a good number of Mexicans and a few African Americans. I realized quickly as I marched up the hill from the parking lot to the amphitheater that this is where we who love Ramona come to see her story brought to life, and I knew this was a good place to be. At the summit, in the open-air theater, a cast of nearly forty people, and supporting cast of dozens including at least fifty Soboba Indian people, re-enact

the epic. The men are dressed in marvelous *chalecos*, the women in beautiful dresses like the ones you see at the Santa Barbara Historical Society, and some of them really are Mexicans. There are lots of Indians, true descendants of Alessandro. Everyone sings songs reminiscent of Old California, at least as we wish it were. This is serious theater.

Next to me sat a Japanese American woman and her African American companion—yet another of "these crosses" that so riled Señora Moreno. At the intermission she launched into a diatribe about how the play just didn't follow the novel at all. "I know," I said, "like it just starts out with Felipe being sick. . . ."



Performed enthusiastically since 1923, the Ramona Pageant is, according to its website, "much more than just a love story. Woven into the romance of Ramona and Alessandro is a glimpse of the tragic history of Southern California's native people. It is a love story with a moral, and a message that is as important today as it was when the story of Ramona was written more than a century ago." *Courtesy the Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*

"They didn't show at all how the book was about the Indians and not all this Spanish stuff."

"Yes, that's true," I said, "but ol' Helen Hunt Jackson didn't exactly follow the historical. . . ."

"Well, this is ridiculous," she interrupted again. "The characters just aren't like. . . ."

I tuned out, thinking "wouldn't you know it, I come here looking for everyday people's take on Ramona and I get seated next to a zealous literary critic."

"Well, you know, this IS a pageant, something different from *theater*." I find myself defending Ramona, but to little avail.

"I go to from 30 to 40 plays a year," I hear from her. "The Mark Taper Forum, Pasadena Playhouse, and. . . ."

Through the second half I get more running critical review. I watch the play. It is so tragic. The Americans' avarice is portrayed mincing no words or actions. Alessandro's end is depicted with all of its horribleness. A hundred Indians on the hillside—Soboba people—and what seemed like a similar number of other cast members receive the crowd's hearty and righteous applause. More diatribe comes as the cast takes its bows. I venture, "Now could the Pasadena Playhouse ever assemble anything like this?"

"The actors could have been more. . . ." I tune back to the audience applauding the performers, knowing I should keep quiet.

I renege on my own advice as we are walking out: "Well, look at it this way. Jackson took all of these stories and wove them into the book, then came the

ageant"—which my critic didn't know was written in 1923—"which is, maybe, just another version of these stories. Which really happened, for instance when. . . ."

"Yes, but it should have. . . ." I'm watching the other people now. "She just doesn't get it," I think to myself.

Afterward the Lions Club has a big fundraising dinner: cole slaw, half a canned peach, and some mighty fine beans and BBQ beef. While we ate, some of the cast members serenaded us with "Rancho Grande," "Down Mexico Way," "Guantanamera" (it's Cuban), and "Ramona." Standing in line behind me was a woman with her mother and her son. *La Señora* spoke in Spanish, the son in English, and she in both. I asked *la abuela*, "*¿Usted le gustó a Ramona?*"

"Sí," she said, "*pero era diferente.*"

"*¿Del libro?*" I asked.

"No, *de la última vez*. They strangled him before."

"*Y era muy diferente en el libro,*" I told her and mentioned some of the ways it was, but stopped myself when I remembered I was here to watch and to listen. She was very impressed that I had read the book. "*¿Pero, a usted le gustó?*" I repeated myself.

"Sí," she said again. "*Era muy bonita.*" She understood it. We continue in line and I wonder what *Ramona* means to her really, this woman who returns again to the pageantry of *Ramona*.

At the dinner people in the cast came around to greet the audience members. The woman who played Señora Moreno explained how everyone in the play must be from the Mt. San Jacinto College district. In years past *Ramona* and *Alessandro* could "be professionals from Los Angeles or Hollywood but this *Ramona* is from here." See, I knew this wasn't the Pasadena Playhouse.

An elderly African American man asked to borrow my pen so he could ask *la Señora* to autograph his program. When he gave it back I said, "I can tell you liked the play."

"Yes, it's so romantic," he said and paused briefly. "And factual about what was goin' on back then."

"Hmm, yes," I said. And thought, "He got it too." His people would know the story of *Alessandro*.

Surely, then, this is part of the reason that I love *Ramona*: I love the stories; I love the fantasy lifestyle she inhabited in the novel; the way Jackson constructed Mexican ways as so superior to American ones; and I honor the wholeness of Jackson's telling, which includes both the beauty and the meanness; and I feel nostalgia for this place that has never really—well, yes and no, actually—existed. And I love how so many of us share this grandly encompassing story. It's probably understandable then that I yearn for a beautiful landscape, I crave generous social relations, and I desire *Ramona*.

THUNDER AND LIGHTNING

There are so many reasons why we love. We can wonder why *Ramona* and *Alessandro* fell so completely in love. A psychologist might direct our inquiry to her relationship to her adoptive mother: "the shepherds, the herdsman, the maids, the babies, the dogs, the poultry, all loved the sight of *Ramona*; all loved her except the Señora." *Ramona* would always be searching, mostly unconsciously, for the warmth denied her by "the Señora (who) loved her not; never had loved her; never could love her." Likely, the Señora would always be withholding of any sort of emotion for *Ramona* owing to her grudging promise to her sister, *Ramona's* mother, to stand "in place of mother to the girl. . . . and with all the inalienable staunchness of her nature she fulfilled the letter of her promise." (26–27) It is not hard to envisage the little girl's endeavors to win the affection of this reluctant mother figure, and the coldness and aloofness with which her efforts were met. Almost any reader can imagine entering into the novel to love *Ramona* because the Señora did not. It is not hard at all then to understand the utter thrill and fulfillment *Ramona* would experience when *Alessandro* would say to her, "O Señorita, then you will not be angry if I say that I love you!" And then to receive a kiss, right there, out in the open, from a man sobbing, saying, "I love you!" (120–121) On the contrary, to say the least.

How could either know love except as compensation for something else lacking in their lives?

Alessandro "had not thought much about women. He was a distant, cold boy, his own people of the Temecula village said. It had come, they believed, of learning to read, which was always bad." (53) Ramona did not know much of the world:

No one would have known, from Ramona's face, manner, or habitual conduct, that she had ever experienced a sorrow or had a care. . . . She had two years at school, in the Convent of the Sacred Heart at Los Angeles, where the Señora had placed her at much personal sacrifice. . . . Here she had won the affection of all the Sisters, who spoke of her habitually as the "blessed child." They had taught her all the dainty arts of lace-weaving, embroidery, . . . not overmuch learning out of books, but enough to make her a passionate lover of verse and romance. (36)

Perhaps the final words of this quote would suggest that she could know of love through romance novels, but really there were very few of those in southern California of the 1850s.

Even those of us who see maudlin, Victorian sappiness in their love can't help but be drawn—be honest, readers both female and male, at least a little bit—to how this love was so all-encompassing and passionate, so unintended and serendipitous, and so rapturous and delivering from their disappointing lives. Such a love, when one falls in love with someone they don't really know, can only derive from subconscious cravings, from frustrated yearnings. When we abruptly fall in love with Ramona we have the opportunity to investigate the nature of our own sensual longings and emotional hunger. We can put the book down for a while and contemplate love, though such reflective devotion probably pales before that ecstatic, devouring love that has that most powerful of charges: the psychic electricity of the anxious, even neurotic, individual yearning for emotional and sensual redemption. Ramona's and Alessandro's love, its thunder and lightening, is the most exciting and compelling, and the most volatile and unpredictable.

Ramona could have known of love from her faith, from her devotion to the Virgin Mary: "It is not by what happens to us here in this world that we can tell if the saints love us, or if we will see the Blessed

Virgin," she informs Alessandro. Rather it is "by what we feel in our hearts . . . just as I knew all the time, when you did not come,—I knew that you loved me. I knew that in my heart." When Alessandro responds that "it is not possible to have the same thoughts about a saint as about a person," Ramona answers, "not quite, about a saint; but one can for the Blessed Virgin. . . . Her statue, in my room at the Señora's, has always been my mother." (232)

We moderns often don't realize that people in the past have had many of the same emotions that we do. Love, among nineteenth-century Latin Americans, emerged from two sources: from the command to love God and thus thy parents and humankind, and love from the heart, the sort of love that was subversive because it was associated with sexual desire, exalted the self, and potentially undermined one's family of origin. Ramona's and Alessandro's bond obviously exemplified the latter type in both source and consequences, but I suspect that it was in the context of the former that Ramona, at least, came to know of love. Such an interesting notion—that people in the deep past had feelings of love springing from their hearts, which may have been religious in origin, especially for the Virgin of Guadalupe for Mexicans, but which informed people about the nature of the feelings they might have had welling up in their hearts for another person. You see, when such people found themselves in situations where they might love another mortal, the love they already knew was for the Blessed Spirits. Perhaps they felt conflicted about the way those two allegedly different sorts of loves converged, but just as likely they did not. Or maybe they transformed the passion they felt for their spirit love into passion for their human love.

My own spirit love has not come from the Holy, however, but from the other senses—from the music on the radio and from the art works in museums. Thinking and writing about all of these matters makes me recall, makes me realize, that it was not only something of other people's devotion to God that I came to know from looking at beautiful paintings, but that I came to know, or thought I knew, something of love. No, it was not love I came to know

standing before those images, but desire: Botticelli's *Venus* and Ingres's many *Odalisques*; of course, Manet's *Olympia* and Goya's *Maja*, the nude one naturally; even Parmigianino's *Madonna of the Long Neck*; and now any of Kahlo's self-portraits, especially *On the Border between Mexico and the United States*. My experience before the canvases is much like those who confront the Holy Spirits: it's more about yearning for the sublime or simply longing for a happier life. Ramona, do I ache for you because you are like those paintings? Is it that I have confused my love for you with my carnal desire for those beautiful, so apparently innocently available, women? Or is it that I simply want to share a simple and splendid kiss with you?

Of course these sorts of passions—Ramona's, Alessandro's, and mine—would confirm everything that Señora Moreno and other elders would have said about the destructiveness of romantic love. Nothing is more important in Latin American society than marriage. Among the propertied classes the sanctified event maintained and enhanced a family's reputation and wealth, created a broader web of blood ties and alliances, and made sure that the family treasure would not be lost to undesirable outsiders. The young, those most prone to pride, passion, and concupiscence, could not be trusted to make such alliances on their own. Love could not be allowed to play itself out in often subversive and individualist ways, ones that put the self and its desires above the requirements of the family. Ideas about race and marriage were very complicated in Californio society. Some people mixed, especially in the lower classes, while others, more often in such elite families as the Vallejos, took such precautions as arranging a marriage of a daughter at her birth and acquiring a certificate of *limpieza de sangre*, or "purity of blood," which affirmed that there was no Moorish, Jewish, or Indian blood flowing in the veins of the those who would carry on the family patrimony. Ramona's passion, thus, called forth an unmitigated family disaster.

Ramona's father, through his terrible emotional and financial decline, had still managed to save out a fine cache of jewels the Señora was to maintain in

trust for his little daughter, jewels that would fall to the Church should Ramona grievously err in life. Under Spanish and Mexican law, widows and daughters could inherit and hold property. While Señora Moreno's dislike of such mixed marriages probably precluded a significant endowment to Ramona, no doubt some dowry of land would have been hers to attract a proper husband. All this she lost when her selfish emotions for Alessandro carried Ramona away from her family bonds and obligations.

Their love proved psychically calamitous as well. It's an ironic and dangerous aspect of love, like devotion, that it contains destructive elements. Lust, passion, desire, loss of the self in one's *objet d'amour* make us humans do things that hurt ourselves and others. Indeed Alessandro's and Ramona's love brought them only abundant pain, even without the Americans' torment of Alessandro.

Deception worked its evil too. Almost everyone has a secret, something that would change one's whole social and moral stature if people knew about it. For Ramona it was her past and her genealogy, and it was a secret even she did not know. At some point, to be free of the weight, a person must release that secret. When Ramona found out that she was half-Indian, and that this secret lay behind Señora Moreno's disparagement of her, Ramona unleashed the secret and fell for the Indian Alessandro. It was either break away or let the secret condemn her to endure her pathetic life in which the Señora would continue to punish her for her shameful origins.

THE GOOD AND BAD RAMONAS

That we humans so consistently, across time and cultures, act in so many destructive ways is unnerving and disheartening to contemplate. Do we love within this context? Is love about creation and destruction both? When we subjugate our libidinal desires to family imperatives and to the cause of labor and the creation of civilization, does not that energy often transform itself into antisocial and aggressive acts? Indeed, does not the repression of desire damage our erotic selves and on occasion

make even courting and the sex act itself something hostile? It may well be that Ramona and Alessandro prove not only Señora Moreno right, but Sigmund Freud as well. Love, like devotion, is creative and destructive both. Rethinking this I realize that what was creative about their love was also painful, and what was destructive was also generative. There was so much anguish when Ramona had to leave her loved ones Felipe and Father Salvierderra for Alessandro. Ramona and Alessandro lost their first child; Alessandro met a heinous death. But a consequence of their tragedy is that Felipe and Aunt Ri are transformed in their ideas about Indians; Ramona and Felipe have another child when they go to Mexico (and now I have given away the end of the story), the one that would carry her mother's name into the twentieth century; and reflective readers of *Ramona* will know the history of southern California in new ways.

In one sense, Ramona was "good" as long as she lived up to her society's moral expectations: she was always dutiful, selfless, guileless, and uncomplaining. "This childlikeness, combined with her happy temperament," Jackson explains, "had kept her singularly contented with her monotonous life." (91) This "good Ramona" would have been rather provincial in her thoughts, wooden in her efforts to live up to her society's standards, and unimaginative in conversation. The "bad Ramona" is the one who courageously breaks free from her cultural commands, heroically challenges the racism of her adoptive mother, and bravely overcomes her fearfulness about heading into the unknown with Alessandro. Ramona's endeavors provide the best of arguments for the idea that moral judgments, especially about "good" and "bad" people and their actions, are contingent upon what one values. Do we esteem the compliant everywoman—usually a rather dull person—who does as her family and culture expect or the intrepid challenger to the status quo—often immature or impulsive—who remakes herself in some new, maybe better or maybe not, way?

Of course we proceed ahead with life and love anyway, most successfully, I think, when we

acknowledge their contingencies and complexities. There is no one universal reason why we love, and my affection for Ramona reveals the truth of this to me. I fear that I love Ramona, actually, because she is the Ramona of my imagination, the one I can conjure up when I travel by book to southern California of the 1880s. I can make her what I want her to be when I hold her book in my hands, when I wander away from the text into this imaginary world where there is a beautiful woman whom I could be confident would never play me for a fool. "This childlikeness . . . (and) happy temperament" tells of her happy adaptation to any person, place, or situation. Part of the frustration of love, perhaps why people become destructive, is that we imagine an *objet d'amour* to be a particular way, and then when they don't actually correspond to how we have constructed them in our minds, we rage, and then justify actions that wind up playing our own love for the fool. I wonder and fear what would have happened had I been able to love the Ramona of my dreams, and have her love me, only to find her conversation consistently pointless, her interests sadly narrow, her religion constantly foolish, her love-making frustratingly insipid.

Could she even be such a perfect beauty? I suspect that such an exquisite woman would not have gone so unspoiled for so long. "A man must be dead not to thrill" at the sight of Ramona, Jackson exclaims. (40) Yes, it's true in California then and now that the pretty women get the most attention. This means that they get the most solicitude, presents, and (usually unwanted) propositions. They may then feel the most entitled, qualified, accomplished, and deserving of more attention because of the treatment they get only because of their looks. Everything I know about men tells me that this scenario with Ramona would have been the case. Maybe it's not that my trust in Ramona is not strong enough, rather that I have good reason to think that she would be so many men's *objet d'amour* that they would spoil her or sour her on love.

What else does it mean to be such a perfect beauty? What man would want to love a woman who is not so beautiful as Ramona? Can he ever find

er desirable if he has in his mind the image of Dolores del Río, Loretta Young, the olive-skinned enchantress on the paperback's cover, or the winner of the 1959 Ramona beauty pageant, Raquel Welch? Always yearning for, or even feeling deserving of, such a beauty makes it hard for a man to love a woman because none could ever be as perfect as Ramona. Always looking for Ramona, in whatever incarnation, means that men can't see love in front of them—a woman at once sweet and smart and strong—or even that they will go in search of a new love confident that, because their present love doesn't look like Ramona, no other man will want her. And that, of all things, he will find a woman like Ramona.

I am quite certain that more women have read *Ramona*, and cried in the movies of *Ramona*, than men. I wonder about the women who have known these Ramonas and their experiences of her. The physical beauty of this fantasy character is likely unattainable, except, in my opinion, by Dolores del Río. If they can never be as pretty and pleasing as Ramona, will they be confident in their love? If their man's standard of beauty is Dolores del Río or Raquel Welch will women ever feel safe in their love? There is no better proof of the notion that beauty and femininity are social and historical constructs than Jackson's fabrication of Ramona. Fiction—in the pages or on the screen—too often becomes the truth of what beauty is, of how women should be, of what makes a woman desirable. I'm not sure what to say about what Jackson's ideas about these matters mean for women, but I do know that such constructions make love hard for everybody.

Books, it should be clear by now, are for me more conducive to love than movies, though not for lust and desire, which images enhance and make explicit. I couldn't love either Mary Pickford or Loretta Young, and, alas, probably not even Dolores del Río. As Ramona, Pickford swoons a lot, and there is not much that rings true when Ramona materializes as a middle-class, dedicated wife (Young) married to a convivial man (Don Ameche) who has a bounce in his step in spite of the cultural and physical

debasement his people have experienced for the previous century.

The book is not only always better than the movie, but better than real life too. The book facilitates imagination in ways that the movie never can. The private world of the printed word is a special, dare I say magical, place. Rereading passages, thinking about the stories, considering oneself in relation to the characters, being transported to some place far away and long ago—or in this case, a place very near and not so long ago—all of these practices help us wonder, imagine, and engage in self-reflection. There is much more to love than songs on the radio and dramatic kisses on the screen. And there is much more to this simultaneously miraculous and bizarre landscape of southern California than meets the eye. I guess that's one of the things I've had to learn again writing my story of Ramona: a lover as perfect as Ramona, and a love as perfect as Ramona and Alessandro's, exists only in a place we can explore in a book, in the imagination. Maybe, Ramona, your and Alessandro's story helps remind me that my love for southern California must be as complicated as my love for you. Maybe, Ramona, it's not even you that I love; it's that I love imagining you, beautiful woman, who impels me to think about myself, and all of us who love, in all of these good and hard ways.

see note beginning on page 111

Douglas Monroy is Professor of History at the Colorado College, a native of Los Angeles and a graduate of UCLA. He presently suffers exile to Colorado Springs. He is the author of *Thrown among Strangers: The Making of Mexican Culture in Frontier California*, winner of the James Rawley Prize of the Organization of American Historians, and *Rebirth: Mexican Los Angeles from the Great Migration to the Great Depression*, both from the University of California Press. At present he is finishing a book of essays that deal with a variety of topics including the missions of California, Ramona, American liberalism and Mexico, and NAFTA and immigration. The Jackson Fellows Program of the Hulbert Center for Southwest Studies at the Colorado College generously supported this project.

Ramona Country, Then and Now

TEMECULA

Ramona's Temecula

"'Is it a large town?' asked Ramona.

Alessandro sighed. 'Dear Señorita, it is not a town; it is only a little village not more than twenty houses in all, and some of those are built only of tule. There is a chapel, and a graveyard. We built an adobe wall around the graveyard last year. That my father said we would do, before we built the fence around the village.'

'How many people are there in the village?' asked Ramona.

'Nearly two hundred, when they are all there; but many of them are away most of the time. They must go where they can get work; they are hired out by the farmers, or to do work on the great ditches, or to go as shepherds; and some of them take their wives and children with them. I do not believe the Señorita has ever seen any very poor people.'"
—*Ramona*, p.121

Temecula Today

In 1875 the local Luiseño Indians living in the Temecula valley were evicted from their land. Ten years later the Pechanga Indian Reservation was established near downtown Temecula, a federal reservation of Luiseño Indians. The reservation now has a population of 467, with an adjacent population of 305.

Today 67,000 people live in the wine country of Temecula. Visitors can experience Old Town Temecula, a representation of the town that existed when Temecula was a stop on the Butterfield Overland Stage Line and when it was home to the seventh post office in California. Old Town Temecula was also the site of the Ramona Inn, a building now occupied by an antique store and deli.

SAN PASQUAL

Ramona's San Pasqual

"When they [Ramona and Alessandro] rode down into the valley, the whole village was astir. The vintage-time had nearly passed; everywhere to be seen were large, flat baskets of grapes drying in the sun. Old women and children were turning these, or pounding acorns in the deep stone bowls; others were beating the yucca-stalks, and putting them to soak in water; the oldest women were sitting on the ground, weaving baskets. There were not many men in the village now; two large bands were away

at work,—one at the autumn sheep-shearing, and one working on a larger irrigating ditch at San Bernardino."

—*Ramona*, p. 243

San Pasqual Today

Twelve miles from Escondido, the San Pasqual Band of Indians, affiliated with the Kumeyaay Nation, lives on a federally recognized reservation of 1,400 acres of land in Valley Center. The people of San Pasqual are known as the Kumeyaay-Ipai and Northern Diegueño Indians. The reservation is home to a nationally recognized community center and fire station and is in the process of building a new educational center, a new upgraded water delivery system, and permanent cultural displays in surrounding communities.

SAN JACINTO

Ramona's San Jacinto

"It was a wondrous valley. The mountain seemed to have been cleft to make it. It lay near midway to the top, and ran transversely on the mountain's side, its western or southwestern end being many feet lower than the eastern. Both the upper and lower ends were closed by piles of rocks and tangled fallen trees; the rocky summit of the mountain itself made the southern wall; the northern was a spur, or ridge, nearly vertical, and covered thick with pine-trees. A man might roam years on the mountain and not find this cleft."

—*Ramona*, p. 309

San Jacinto Today

Every year 400 actors, singers, dancers, and horsemen come together in Hemet in the San Jacinto Valley for three weekends to perform the Ramona Pageant at the Ramona Bowl Amphitheater. Since 1923 the Official California State Outdoor Play has entertained thousands of visitors with this unique production based on *Ramona*. The play uses the natural setting of canyons and hillsides in place of a traditional stage and employs only two actors, Ramona and Alessandro. The rest of the cast are volunteers.

SEÑORA MORENO'S HOUSE

In Ramona's Day

"The Senora Moreno's house was one of the best specimens to be found in California of the representative house

Rancho Camulos, Home of Ramona.
*Courtesy Charles Von der Ahe Library,
 Loyola Marymount University.*



of the half barbaric, half elegant, wholly generous and free-handed life led there by Mexican men and women of degree in the early part of this century. . . . Besides the geraniums and carnations and musk in the red jars, there were many sorts of climbing vines,—some coming from the ground, and twining around the pillars of the veranda; some growing in great bowls, swung by cords from the roof of the veranda, or set on shelves against the walls.”
 —*Ramona*, pp. 11, 15

Señora Moreno's House Today

As Errol Wayne Stevens wrote in “Helen Hunt Jackson’s *Ramona*: Social Problem Novel as Tourist Guide,” *California History*, 77:3, both Rancho Camulos in Ventura County and Rancho Guajome in Oceanside continue to claim that they are the site that served as the inspiration for *Ramona*’s home.

Rancho Camulos, now a forty-acre National Historic Landmark, was originally the Indian village Kamulus. The Del Valle family, once one of the most established Spanish families and the original owner of the ranch, was forced to sell the property in 1924. In the 1990s the owners opened a museum and began to restore several historic buildings. The grounds now comprise more than a dozen structures including a schoolhouse, a chapel, a barn, and a bell structure. The museum is open to the public.

Built in the 1850s, Rancho Guajome is now part of the Guajome County Park, popular among southern California hikers and campers. The adobe home, once the site of huge parties entertaining the state’s elite, contains twenty-eight rooms and was built of impressive adobe bricks weighing up to seventy pounds each. Rancho Guajome is open to the public.

CASA DE ESTUDILLO

Ramona's Casa de Estudillo

“Father Gaspara’s house was at the end of a long, low adobe building, which had served no mean purpose in the old Presidio days, but was now fallen into decay; and all its rooms, except those occupied by the Father, had been long uninhabited. On the opposite side of the way, in a neglected, weedy open space, stood his chapel,—a poverty-stricken little place, its walls imperfectly white-washed, decorated by a few coarse pictures and by broken sconces of looking glass, rescued in their dilapidated condition from the Mission buildings now gone utterly to ruin. In these had been put candle-holders of common tin, in which a few cheap candles dimly lighted the room. Everything about it was in unison with the atmosphere of the place,—the most profoundly melancholy in all Southern California.”
 —*Ramona*, pp. 231–232

Casa de Estudillo Today

Located in San Diego’s Old Town, Casa de Estudillo is one of the most famous adobes in the region. Its construction began in 1827 by Captain Jose Maria de Estudillo, commander of the San Diego presidio, and was maintained after his death by his son, Jose Antonio Estudillo. The younger Estudillo was prominent in his community; he served, among several other leading positions, as the San Diego judge under Mexican rule, and the treasurer and assessor of San Diego County under American rule. He lived with his wife, Maria Victoria Dominguez, and their children in the adobe until 1887. The building was restored in 1910 and donated to the state. It is now a furnished museum open daily to the public.

Edited by James J. Rawls

Migrant Daughter: Coming of Age as a Mexican American Woman

By Frances Esquibel Tywoniak and Mario T. García
(Berkeley: University of California Press, 2000, 267 pp., \$45 cloth, \$17.95 paper)

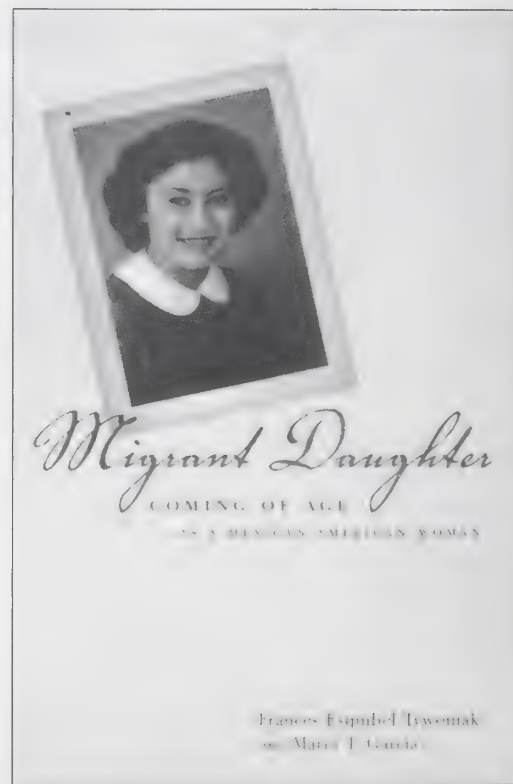
Reviewed by Rosaura Sánchez, professor of literature, University of California, San Diego

This dual-voiced collaborative narrative is the product of extensive interviews of Frances Esquibel Tywoniak, a retired California school teacher and administrator, by Mario T. García, a professor of history at the University of California, Santa Barbara. It provides readers with an important account of migrant life in California during the 1940s and 1950s. Unlike works such as *Barrio Boy* by Ernesto Galarza, which traces a young boy's immigration from Mexico in 1913, *Migrant Daughter* focuses on a young girl and her family and their interstate migration from New Mexico to California during the late 1930s. It is an intimate first-person account of a young girl's coming of age amidst the hardship of labor camps and the fields.

Born in 1931 in the southeastern part of New Mexico, Frances Esquibel was six years old when her family rode west to the San Joaquin Valley where she, her older sister, and her father began working in the fields, picking peaches, cotton, grapes, tomatoes, and other crops. Frustrated by continual dislocation as the family followed seasonal crops, Frances, even as a child, began to resent the role of breadwinner thrust upon her. This testimonial of class resentment and alienation presents a young girl who grew up with the goals of escaping from poverty, distancing herself from the barrio, and becoming independent of her family and its constraining ties. In this sense it is a testimonial *bildungsroman*, a first-person narrative of social constraints, acculturation, and social mobility.

The Esquibel family eventually settled in Visalia, first in the barrio and later in an integrated community, where Frances grew up to be an early Latina "scholarship girl." She entered the University of California at Berkeley in 1949 and graduated in 1953. A year later she earned her teaching credential and began working in the public schools of Oakland and San Francisco. While still a student at Berkeley, she married Ed Tywoniak, a World War II veteran of Polish descent who was seventeen years older than she.

Esquibel attributes her drive to graduate from high school and attend college—the only person of Mexican origin in Visalia to do so—to her strong sense of independence, her love of learning, and the good advice of a few key teachers she encountered along the way. In what is in many ways an "Americanization narrative," her story stresses that it is her exceptionalism, her "difference" from other barrio youth—who are seen to be hamstrung by a lack of ambition as much as by a lack of opportu-



Courtesy University of California Press.

nity—that will allow her to "succeed." *Migrant Daughter* affirms rather than challenges the dominant U.S. ideology of meritocracy. Ethnicity, class, and gender discrimination are seen to impose constraints but are not ultimately viewed as limiting the attainment of the gifted. What is especially key to the achievement, the work suggests, is shedding the trappings of dysfunctional ethnic cultures and distancing oneself from one's working-class roots, that is, one's parents and one's community. Much like the work of Richard Rodríguez, *Migrant Daughter* suggests that one can become part of the mainstream by becoming English dominant, marrying a non-Chicano, and gaining a university degree.

This testimonial continues the tradition of the acculturation narrative, here with a gender and Latina inflection. As it reinforces core values of individualism and personal merit within what is taken to be a colorblind, class-blind, and gender-blind U.S. society that provides equal opportunity to all its citizens, it will undoubtedly attract a good deal of attention. CHS

Books sent to *California History* for review that are not reviewed, but pertain to the collection, are catalogued in the California Historical Society library.



Fool's Paradise: A Carey McWilliams Reader

Edited by Dean Stewart and Jeannine Gendar
(Berkeley: Heyday Books, 2001, 188 pp. \$18.95)

Reviewed by Jeff Lustig, Government Department, California State University, Sacramento

Identifying the key events and master trends of one's era presents all the difficulties of plotting the course of a hurricane from within its eye. The swirling debris, welter of facts, scattered claims, and reports get in the way, to say nothing of the force of the wind itself. Yet Carey McWilliams, independent writer, lawyer, and public intellectual, spotted the core issues of mid-twentieth-century California clearly and accurately, not just once but repeatedly.

McWilliams penned an astonishing nine books between 1939 and 1950, delivering original insights and theories that set or anticipated the terms by which we have come to understand our state. It was he who publicized L.A.'s Owens Valley water theft and saw that the state's water problems were primarily "a cultural problem," who discerned in southern California

anomie, fantasy, and cultic movements something deeper (*Southern California Country: An Island on the Land*, 1946), who revealed the plight of migrant labor as caused by a "pattern of industrialized agriculture" (*Factories in the Field*, 1939), saw the social effects of Los Angeles's long repression of labor, identified "farm fascism" and a deeper legacy of vigilantism, condemned Japanese internment while the war still raged (*Prejudice*, 1944), and recognized the Pacific Coast as "our racial frontier"—not just because of its ethnic diversity but because of institutionalized patterns built up over a century (*Brothers Under the Skin*, 1943).

Heyday Books' *McWilliams Reader* (edited by Dean Stewart and Jeannine Gendar) brings together the best parts of these works, permitting an appreciation not only of the wide range of McWilliams's vision but also its accuracy and its power. The *Reader* also reveals the refreshing simplicity of his prose, laced with irony, gifted phrases, and enjoyable cameo portraits. It will be welcomed alike by newcomers to McWilliams, teachers of California subjects, and those with dog-eared copies of his work on their shelves.

McWilliams was something of a paradox. Capable of an Olympian detachment like a Mencken or Bierce, he was aware, unlike them, that the human comedy entailed real crimes and imposed the need to act. Deeply involved in politics as an investigative journalist, state commissioner of housing and immigration, chair of the Sleepy Lagoon Defense Committee and more, he wrote calmly, without hyperbole and without illusions concerning the future.

This compact volume also reveals beneath the sober appearance a demon researcher and original social theorist. And the picture of California his research revealed was different from the one on the postcards. It was a picture, first, of a society shaped by politics more than nature. Having worked his way up from the classified bureau of a big city daily, McWilliams never forgot the powerful interests that made the land deals, rigged the labor conflict, and distorted the normal patterns of social development. Second, its politics were steeped in conflict and indelibly class-based.

But, third, the results of that conflict were "peculiar." A close student of what was going on around him, McWilliams saw why L.A.'s bizarre cults attracted more people in the thirties than the trade unions, how the new media politics manipulated people, and how the state's habits of racism, flowing from the fateful alliance between homegrown anti-Chinese bigots and southern Bourbons, now led white workers "to attack not the exploiter, but the other [exploited] victim"—though such scape-goating (1943) was "short-sighted and self-defeating." Reagan won the governorship, he reminds us, not because of campus radicals, but because of "racist political campaigns that exploited opposition to the [Rumford] open-housing law."

The final selections in this volume from his editorship of *The Nation* in New York reveal an equally sure grasp of the recondite game of politics. Thus his account (1950) of the rise of the "dapper little man with an astonishing capacity for petty malice," Dick Nixon, and his prescience at the 1960 Democratic convention to see in youthful Stevenson-backers essential "outsiders, the vanguard of the new political forces of the 1960s." The volume concludes with McWilliams's important account from his autobiography of his own "indigenous radicalism."

The *Reader* includes a helpful introduction by Gray Brechin and an evocative foreword by Wilson Carey McWilliams, as elegant and discerning a writer as his father. This reviewer would have also included a few other memorable selections (part of *Shadow America*, his fine tribute to Louis Adamic, the brilliant essay on strangers from Southern California Country, early pieces on media politics). And an index would have been helpful.

McWilliams's obvious relish in what he was doing, his revelatory insights, and abiding decency make him a continuing pleasure to read. He promised no victories and offered no nostrums, but he knew what fights were worth fighting, and joined them eagerly. Just the sort of companion we need now. CHS

Beyond Smoke and Mirrors: Mexican Immigration in an Era of Free Trade

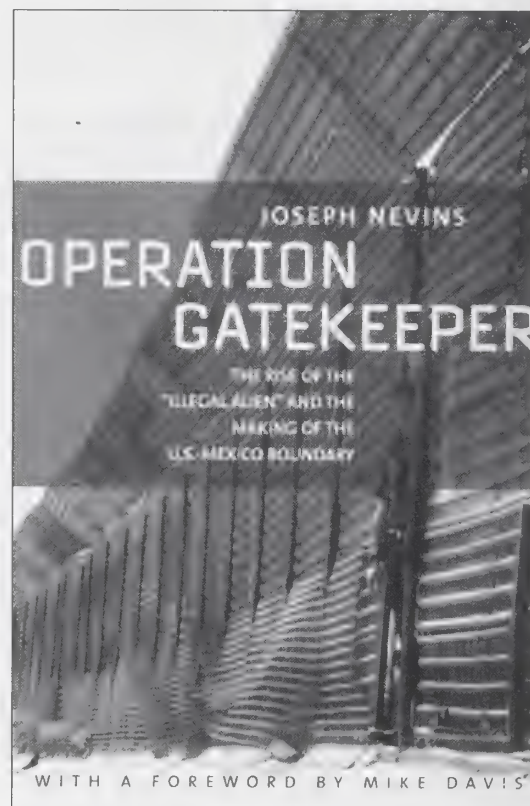
By Douglas S. Massey, Jorge Durand, and Nolan J. Malone (New York: Russell Sage Foundation, 2002, 256 pp., \$29.95 cloth)

Operation Gatekeeper: The Rise of the "Illegal Alien" and the Making of the U.S.-Mexico Boundary

By Joseph Nevins (New York: Routledge, 2002, \$17.95 paper)

Reviewed by Richard Griswold del Castillo, Professor of Mexican American Studies, San Diego State University

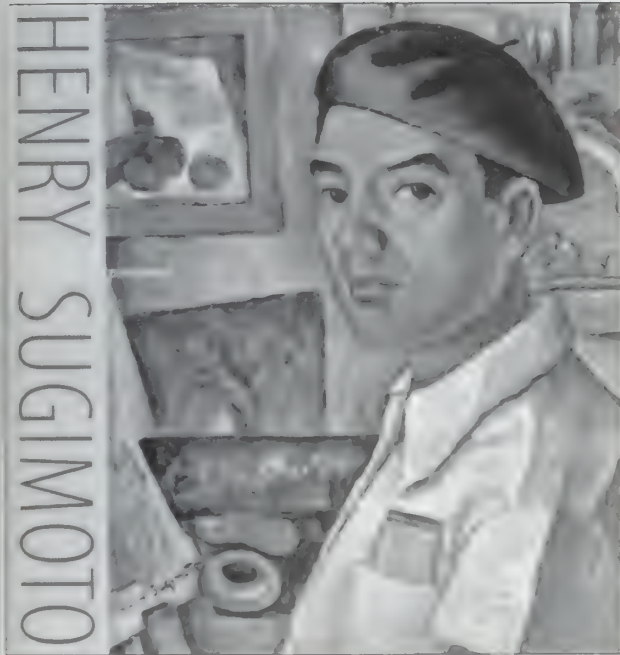
These two books share a similar thesis but develop their argument in different ways. Both argue that the United States' immigration policy is seriously flawed, opposing major historical and economic forces as well as ignoring the realities of Mexican immigration. Massey et al. conclude that "the dream of a controlled border" is an illusion that flies in the face of increasing U.S.-Mexican economic integration and a sixty-year history



Courtesy Routledge.

of immigration. The present policy is one of "smoke and mirrors," basically an ineffective, expensive, and unjust policy that exists to delude the American people. Nevins, in his book, agrees with this thesis, but in a more subdued way. He sees Operation Gatekeeper as arising out of nationalistic fears engendered by rapid globalization. The policy is ineffective in stopping immigration and contradicts inexorable forces leading toward integration of markets in North America. Nevertheless it serves as a political and emotional salve for the fragile psyches of middle-class Americans.

Nevertheless it is *Beyond Smoke and Mirrors* that is, to my mind, the more lively of the books and more convincing in its use of evidence. It is aimed at policy makers with the last chapter giving solid advice on what they should do to "fix" the current mess. Their empirical evidence is impressive, a compilation of two decades of data drawn from undocumented as well as documented immigrants comprising more than 85,000 subjects. The authors used this data to show in quantitative terms using graphs how, since Operation Gatekeeper began in the early 1995, the apprehension rate, per 1,000 officers, for the Border Patrol has declined while the cost per apprehension has risen dramatically. They show that the increased difficulty of crossing the



Henry Sugimoto: Painting an American Experience

By Kristine Kim (Berkeley: Heyday Books, 2000, for the Japanese American National Museum, xiv, 141 pp., paper, \$24.95)

Generations: A Japanese American Community Portrait

Edited by Diane Yen-Mei Wong (San Francisco Japanese Cultural and Community Center of Northern California, 2000, v, 136 pp., cloth, \$45, printed in Japan)

Reviewed by Nadine Ishitani Hata, Professor of History and Vice President, Academic Affairs, El Camino College

border has, ironically, resulted in more undocumented immigrants staying in the United States once they have made it. Meanwhile, for the immigrant, the numbers of deaths while crossing have increased, as has the cost of hiring a coyote.


Operation Gatekeeper by Nevins does not make as dramatic a point, but is more methodical in setting the context for understanding what is wrong with our current policy. The chapters retelling the story of how the border came into existence and the history of U.S.-Mexican immigration policy are useful to the novice who has never thought that Mexican immigration has a history. Generally Nevins is more interested in the postmodern meaning of the border since the implementation for Operation Gatekeeper, i.e., that the border has taken on a new meaning for the American public it is now "imprisoned" by a new kind of nationalism. Nevins is critical of this view and advocates a "transnational integrationist vision" that puts humanity above national citizenry" (p. 185). This is a laudable if not highly idealistic goal.

One can only hope that more than academics read these two books. There is a very high human cost, not to mention the increasing damage to our national soul, of keeping on the same track as Operation Gatekeeper has pointed us. CHS

Generations is a coffee-table retrospective of San Francisco's Nihonmachi (Japantown) produced to commemorate the twenty-fifth anniversary of the Japanese Cultural and Community Center. Funded by individual donations and local businesses, its five chapters contain brief overviews and photos with descriptive captions, beginning with a prefectural picnic and pre-World War II images of laborers, shopkeepers, and family-run establishments. Other photos record the abrupt mass removal and incarceration of 1942 when 8,000 Bay Area Nikkei were imprisoned in the horse stalls of Tanforan Assembly Center before being sent to the concentration camp at Topaz, Utah. After the war, some returned to live in Nihonmachi; others commuted back for the annual Cherry Blossom festivals, Japanese language classes, and social and athletic clubs in a society that was still explicitly segregated. Community solidarity and activism are captured in photos of protests by the Committee Against Nihonmachi Eviction, the faces of young Nikkei providing social services to the elderly, and individuals seeking redress for wartime injustices.



Courtesy Japanese Cultural and Community Center of Northern California

Henry Sugimoto's (1900–1990) paintings, drawings, and prints provide a personal and often gut-wrenching interpretation of life in America in this handsome accompaniment to the 2001 retrospective exhibit of his work at the Japanese American National Museum in Los Angeles's Little Tokyo. It is chronologically organized, starting with his arrival at Hanford, California, at age nineteen, through his evolution as an artist whose early focus on landscapes and still lifes was transformed by his World War II incarceration, first in the Fresno Assembly Center and later in the War Relocation Authority concentration camps at Jerome and Rowher, Arkansas. His evocative oil paintings, which are reproduced in color, convey the emotional and physical trauma of camp life. Cogent introductory essays and brief descriptions of each work include quotes by Sugimoto, who had completed more than a hundred paintings and numerous sketches by summer 1945. From 1960–1970 his evolving historical and personal perspectives produced new and reworked camp compositions as the movement for redress was gaining momentum among Nikkei across the nation. Sugimoto testified before the U.S. Commission on Wartime Relocation and Internment of Civilians in 1981 and showed them his paintings. The publication concludes with excerpts from Sugimoto's memoirs, his daughter's reminiscences, and a short bibliography. 

John Muir: A Naturalist in Southern California

By Elizabeth Pomeroy (Pasadena: Many Moons Press, 2001, 148 pp., \$15.95 cloth)

Kindred and Related Spirits: The Letters of John Muir and Jeanne C. Carr

Edited by Bonnie Johanna Gisel (Salt Lake City: University of Utah Press, 2001, 394 pp., \$34.95 cloth)

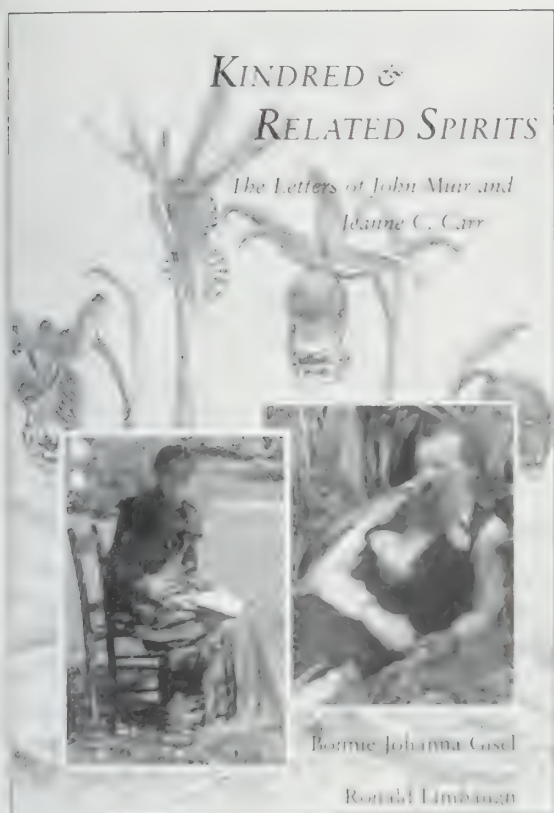
Reviewed by Dr. Roderick Nash, *Professor of History and Environmental Studies, University of California, Santa Barbara, retired*

The decline of the great American letter began in the early twentieth century with the invention of the telephone; email and faxes expedited the process. And slower, pastoral ways yielded to the urban, technological, frantic and impersonal civilization we know today. Both these volumes concerning John Muir and his friends reflect, with some sadness I think, on a vanished lifestyle.

Take letters: they were the staple of personal communication in Muir's America. Often long, thoughtful, and carefully handwritten, important letters were tied into bundles and cherished. Recipients reread them, like favorite books, at special moments or in special places. "I have," John Muir wrote Jeanne Carr, "been out on the river bank with my letters." For the cyberspace generation this would seem quaint and inefficient indeed.

Dr. Bonnie J. Gisel's important contribution is an edited collection of all the available letters between Muir and his mentor, confidante and special friend, Jeanne C. Carr. Gisel prints almost one hundred and fifty letters dating from 1865, when Muir began his extraordinary career as a wilderness enthusiast, to 1895, when Carr (who was twelve years older) declined into senility. Gisel presents this correspondence with insightful introductions (drawn to some extent from her unpublished dissertation about Jeanne Carr), careful documentation, and helpful chronologies and bibliographies. In addition, Gisel identifies more than sixty letters that either no longer exist or are inaccessible to researchers. This is the definitive work; a signal contribution to nineteenth-century historical scholarship.

By any standard the Muir-Carr correspondence was remarkable. Carr was the wife of a professor at the University of Wisconsin (which Muir attended) and the mother of four. Intelligent and spirited, it is clear she chafed under the confines of norms of upper-class Victorian womanhood (which included calling her husband "Dr Carr"). Botany, theology, and living vicariously through Muir in his wilderness wanderings were her salvation. Granted, some of the letters are prosaic descriptions of places



Courtesy University of Utah Press.

and people, but many are almost essay-length and pour out a common love of nature and the divine presence it was believed to symbolize. At times the correspondence (and the fact that parts of it were destroyed by Muir's order) suggests sexual closeness that has intrigued Muir scholars for decades. To her credit, Dr. Gisel focuses on the greater intimacy that a shared love of nature created.

Most of the Muir-Carr correspondence was postmarked from locations in the Sierra and the San Francisco Bay area. But in the late 1870s their interests turned to the semi-deserts to the south. Jeanne Carr and her husband purchased land in then-bucolic Pasadena. Muir began to explore the San Gabriel Mountains north of the city. Dr. Elizabeth Pomeroy's slender book describes Muir's travels and friendships in southern California. An English teacher and regional historian, Pomeroy presents some correspondence (but not with Carr), a smattering of newspaper articles concerning Muir and even suggestions of "places to visit." In contrast to Gisel's sophisticated intellectual and social history, Pomeroy's text is a simplistic account of where Muir went and what he did in the southern deserts and mountains. Orange groves and front porches take precedence over the mountains as Muir aged. A little-known detail is that John Muir died in a Los Angeles hospital from pneumonia brought on by a cold December trip to the Mojave Desert. The year was 1914 and southern California was on the brink of massive changes that would find the world Carr and Muir knew blown away in the roar of freeways and the winds of change. CHS

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Lawrence, "The Ghirardelli Story," pp. 90–115

The author wishes to acknowledge, with gratitude, Thomas L. Birch. Also essential were the exhibition research of Doug Morse and Stephanie Cha-Ramos, and Andrew M. Canepa's kind counsel and scholarly references made this essay possible. Color reproductions accompanying this article were made possible by the generosity of the Ghirardelli Chocolate Company, Mrs. Barbara H. Magee, Ghirardelli Square, Mr. Peter J. Musto and Ghirardelli family members Ms. Joan D. Wells, Mr. John Skov, Ms. Natalie D. O'Brien, and Ms. Carrie Morgan. Article © 2002, Sidney Lawrence. All rights reserved.

1. Joel Glenn Brenner, *The Emperors of Chocolate: Inside the Secret World of Hershey and Mars* (New York: Random House, 1999), 74.
2. Barbaralee Diamonstein, *Buildings Reborn: New Uses, Old Places* (New York: Harper and Row, 1978), 208. Boston's Faneuil Hall and New York's Fulton Fish Market came next.
3. Ruth Teiser, *An Account of Domingo Ghirardelli and the Early Years of D. Ghirardelli Company* (San Francisco: D. Ghirardelli Company, 1945).
4. Polly Ghirardelli Lawrence, *The Ghirardelli Family and Chocolate Company of San Francisco. Including Interviews with Marjorie Menfee Tingley and Ben W. Reed. Interview conducted by Ruth W. Teiser* (Berkeley: Regional Oral History Office, The Bancroft Library, University of California, 1985). Hereafter cited as P. G. Lawrence oral history (factual lapses not repeated here).
5. Sidney Lawrence, *Ghirardelli: Portrait of a Family, 1849–1999* (San Francisco: Museo Italo-Americano, September 17, 1999–January 9, 2000). No checklist was published, but various responses in the press (Museo

archives) indicate the breadth of material. The exhibition received a 2000 Award of Merit from the American Association for State and Local History.

6. The richest is the Ghirardelli Company Archives (1985 inventory, Julia Sutherland), hereafter referred to as Archives. Neva Beach, *The Ghirardelli Chocolate Cookbook* (Berkeley: Ten Speed Press, 1995), full of Archives ad art, summarizes the early history elegantly, although Ghirardelli's father was not what Beach characterizes as a world-traveling spice merchant.
7. Harold Nicolson, *The Congress of Vienna: A Study in Allied Unity, 1812–1822* (London: Readers Union, 1948), 186.
8. Paolo Lingua, "Gli Zuccheria de Romanengo," *I Segreti del Gusto*, No. 14, Supplement to *La Stampa* (Turin), (Oct. 24, 2000); Michael Frank, "Genoa, City of Contrasts," *New York Times* (April 9, 2000), Sec. 5, p. 1.
9. According to family lore, Giuseppe Ghirardelli, Domingo's father (mother: Madalena Ferretto), gave him a bag of gold coins at the dock in Genoa. Genealogist Aldo Ghirardelli (b.1927) of Leffe/Bergamo, Lombardy, Italy, states that Giuseppe sold a parcel of land near there to finance his son's journey (letter to author, June 12, 1998). Aldo Ghirardelli's genealogy to the twelfth century (Bergamo, Ferrara, Bologna, from progenitor Gherardus) is in the library of the Museo Italo-Americano. It supplies the full name of Domenico's first wife, which descendants had not known.
10. Unification hero-to-be Giuseppe Garibaldi implicated himself in these disputes, serving in the Brazilian navy and the Uruguayan army from 1836 into the 1840s. This is a fascinating story unto itself, recounted in most biographies and profiles of Garibaldi.
11. Peter Bakewell, *A History of Latin America: Empires and Sequels, 1450–1930* (Malden, MA: Blackwell Publishers, 1997), offers useful profiles of nineteenth century Uruguay and Peru.
12. The street's function has been clarified by scholar Guillermo L. Toro-Lira, Sunnyvale, CA (letter to the author, October 30, 2001), who recommends, for atmosphere and possible portraits of Lick and Ghirardelli, an 1843 genre painting by Maurice Rugendas (1802–1852), *La Cathedral y la Plaza Mayor de Lima*, private collection, Mexico City (<http://www.ceveh.com.br>).
13. The infant was Dominga Martin (b.1846). Carmen's first husband was "a French doctor lost at sea"; her parents were Andres Alvarado and Mergilda Pimentel (from death certificate).
14. Rosemary Lick, *The Generous Miser: The Story of James Lick of California* (San Francisco: Ward Ritchie Press, 1967), 31, 37–38.
15. J. S. Holliday, *Rush for Riches: Gold Fever and the Making of California* (Berkeley: University of California Press, 1999), 83.
16. Alessandro Baccari and Andrew M. Canepa, "The Italians of San Francisco in 1865: G. B. Cerruti's Report to the Ministry of Foreign Affairs," *California History* (winter 1981/82), 368, note 15.
17. David J. St. Clair, "The Gold Rush and the Beginnings of California Industry," in James J. Rawls and Richard Orsi, *A Golden State: Mining and Economic Development in Gold Rush California* (Berkeley: University of California Press, 1999), 187.
18. Bill Cerruti, "Nostra Storia—Our History: The Italian Legacy in the Mother Lode," *Altre Voci—Newsletter of the Italian Cultural Society of Sacramento* (March/April 1999), 6–11.
19. Teiser, *An Account*, 9. This 33-page study is the basic source for information on the founder herein not otherwise footnoted.

2. 1869 map by W. F. Boardman, County Engineer (University of California, Bancroft.G436r4.02:2FR75 1869.B6); Gaskill and Vandrook's 1888 city map of Oakland, Berkeley Architectural Heritage Association.
2. A four-page typed reminiscence, dated April 1984, by Adolph Capurro, San Francisco, recalls his great-grandfather's use of a Ghirardelli employee bank in the mid-1860s.
2. Archives, Sutherland inventory # 1-1.53 D-32.
2. Gerald D. Nash, "A Veritable Revolution: The Global Economic Significance of the California Gold Rush," in Rawls and Orsi, *A Golden State*, 285.
2. Leon O. Whitsell, ed., *One Hundred Years of Freemasonry in California* (San Francisco: Freemason's Grand Lodge, 1950), Vol. III, 967.
2. "Domingo Ghirardelli," *The Society of California Pioneers*, Record II, 1886, 89.
2. Baccari and Canepa, "Italians of San Francisco," 352-357, tells Larco's story.
2. The fall of Sebastopol; the event was a banquet at South Park.
2. Francesca Loverci, "Giuseppe Garibaldi and the Italians of California," in *Garibaldi and California* (San Francisco: Garibaldi Centennial Committee, 1982), 27, 28, 32.
2. "Angelo Mangini," in Michele Rosi, ed., *Dizionario del Risorgimento Nazionale* (Milan: F. Vallardi, 1931-37), Vol. III, 446-447; Philip M. Montesano, "Angelo Mangini in San Francisco, 1859-1870," *130th Anniversary, Società Italiana di Mutua Beneficenza* (San Francisco: Società Italiana di Mutua Beneficenza, 1988).
2. The block was either 3rd, 4th, Clay, and Jefferson (P. G. Lawrence oral history, p. 7; Olney & Middleton auction sheet, note 38) or 1st, 2nd, Grove, and Jefferson (Beth Bagwell, *Oakland: Story of a City* [Novato, CA: Presidio Press, 1982], 142-143). There is no known photo or lithographic view of the house.
2. Carmen's 1872 scrapbook (author's collection) depicts numerous apparent Californios. Family tradition says 1836-1842 Governor Juan Bautista Alvarado (1809-1882) was a relation.
2. "Ghirardelli Returns," *La Voce del Popolo* (San Francisco, August 26, 1890). Translation by Andrew Canepa. Although without quotation marks, this brief report is clearly based on an interview and gives a sense of how Ghirardelli spoke. The only two surviving documents in Ghirardelli's voice are a legal document and a business letter.
2. Collegio-Convitto Commerciale, Genoa (Archives, Sutherland inventory, 2-temp, 137/138).
2. St. Clair, "The Gold Rush," 195, provides a revealing chart of early products under manufacture in California and year the first plants or factories were opened.
35. Ghirardelli's invention, leaving beans 100 percent free of butterfat, appears to have bettered Conraed van Houten's 1828 "cocoa press," which removed 50 percent. See Brenner, *Emperors of Chocolate*, 100; also Christine McFadden, *The World of Chocolate* (London: Hermes House, 1999), 29.
36. Broma won its first medal in 1867 (see *The Society of California Pioneers Newsletter*, December 1998: 23). "D. Ghirardelli & Co.'s Chocolate Factory," *San Francisco Newsletter and California Advertiser* (April 20, 1867), 4, touts "paste" but not Broma.
37. Montesano, "Angelo Mangini," 10-11.
38. Ghirardelli bought the store (now a ruin maintained by Mariposa County) in 1860 after Barbagelata, a company employee, married his stepdaughter. Years later Dominga contested Ghirardelli's will by claiming she was his blood daughter ("The Ghirardelli Will Case," *San Francisco Bulletin*, March 23, 1896).
39. "Ghirardelli Sale!" Thursday, December 10, 1874, Olneys & Middleton Real Estate Auctioneers (Archives, Sutherland inventory 1-7/2.4, N10); "A Big Sale. The Ghirardelli Estate Under the Hammer," *Oakland Daily News* (December 11, 1874), 3.
40. McFadden, *World of Chocolate*, 29. The Guittard Chocolate Company, the nation's third oldest, is in business today and still family owned and operated.
41. "Cocoa and Chocolate: A Pioneer and Successful Local Industry," *The Evening Bulletin* (San Francisco, June 3, 1893), 19.
42. The Pioneer Eagle Chocolate Manufactory ran from October 1869 (Archives, Sutherland inventory 1-f8.3.N6) or 1871 (Teiser, *An Account*, 22) to the early 1880s, the U.S. centennial period. The eagle remains to the present day.
43. "Cocoa and Chocolate," McFadden, *World of Chocolate*.
44. Youngest sibling Eugene Ghirardelli (b. 1860) was not an owner. His E. Ghirardelli Mercantile Company had a bad end ("E. Ghirardelli is Sued in Superior Court," *San Francisco Call* (June 28, 1905) and he disappeared in 1909 and was declared legally dead by wife Rosa Capelli Ghirardelli in 1921 (P. G. Lawrence Oral History, p. 26). The couple's two sons Angelito D. and Rinaldo had no issue.
45. Seven-page memorandum, February 20, 1897 (Archives).
46. The parrot, or macaw, was introduced between 1910 and 1916 (Archives, Sutherland inventory 2-13 P188bw/P205bw). P. G. Lawrence oral history ascribes it to an "ad man." Another famous food-product mascots introduced in the period is Mr. Peanut (1916).
47. David Lavender, *California: Land of New Beginnings* (Lincoln: University of Nebraska Press, 1987/1972), 370.
48. Period photo (Oakland Museum Collection).
49. "Ghirardelli Company Display Building Plans for the Panama Pacific International Exposition, 1914," 8 blueprints in oversize folder, Bancroft Library.
50. Erik Amfitheatrof, *The Children of Columbus: An Informal History of the Italians in the New World* (Boston and Toronto: Little Brown, 1973), 168.
51. Deanna Paoli Gumina, *The Italians of San Francisco 1850-1930* (New York: Center for Migrations Studies, 1984), 5.
52. Ibid., 135.
53. P. G. Lawrence oral history, 144; "D. Ghirardelli Given Surprise" (January 3, 1916), unattributed newspaper clip (author's collection).
54. Del Monte cannery co-founder Marco Fontana, vintner Andrea Sbarbaro, and banker A. P. Giannini also served in this organization, organized to help Italians regardless of region. (P. G. Lawrence Papers, Bancroft Library.)
55. P. G. Lawrence oral history, 13.
56. 3000 Pacific Avenue, torn down about 1957. Earlier family residences include 610 Fulton (1877), 2416 Fillmore (1884), 2617 Laguna (1892), from a family scrapbook (private collection).
57. "D. Ghirardelli Dies, Dean of San Francisco Businessmen," *San Francisco Call* (August 10, 1932). The Stanford Business School Library was bequeathed an unknown sum to buy books in his memory. See also "Ghirardelli, Domingo," *The National Geographic* (New York: J. T. White and Co., ca. 1950), vol. XXXVII, 379.
58. P. G. Lawrence oral history, 135 and 164, discusses Schilling and Schmidt in relation to Ghirardelli; Joseph Musto Estate, Sansome Street, San Francisco, has a check, dated 1896, for marble delivery and installation at the then-new Ghirardelli plant on North Point Street.
59. Now 915 West Santa Inez, with property sold off (No. 703 41, 1./51/Previews Inc. brochure). After her husband died in 1932, Addie Ghirardelli donated a public card shelter in his memory. See Christopher Pollock, *San Francisco's Golden Gate Park: A Thousand and Seventeen Acres of Stories* (Portland, OR: Westwinds Press, 2001), 26-27.
60. Katherine Littell, "Chris Jorgensen, California Pioneer Artist," Master's Thesis, California State University, Stanislaus, 1993 (444 pp.), is the definitive study. See also Littell's 24-page catalog (same title) for the Society of California Pioneers, 1988. Jorgensen bequeathed Yosemite 198 of his paintings. See "Yosemite Man," *Time Magazine* (December 28, 1936), 25,

- with inaccurate commentary on his lack of sales). The Seaver Center for Western History Research, Natural History Museum of Los Angeles County, has a Jorgensen collection.
61. Three pyrographic portraits by Angela Ghirardelli—one a portrait of naturalist Galen Clark in the Yosemite Museum—were assembled. Her one surviving oil painting, "Pansies in the *San Francisco Chronicle*," 1886 (family collection, Victoria Ghirardelli Robinson, Woolsthorpe, Australia), plate 62, in Janice T. Dreisbach, *Bountiful Harvest, 19th Century California Still-Life Painting* (Sacramento: Crocker Art Museum, 1989). It was also shown in "Nature's Bounty: American Floral Painting, 1835–1935" at the Whitney Museum of American Art at Champion, Stamford, CT, 1993.
 62. Littell, "Chris Jorgensen," chapter 2, 21.
 63. *Ibid.*, chapter 2, 26, suggests this mentorship was arranged and paid for by Ghirardelli. See Norma Freedman Broude, *The Macchiaioli: Italian Painters of the 19th Century* (New Haven, CT: Yale University Press, 1987).
 64. The bust, dated 1890 and owned by Ghirardelli Square, is by Genoese sculptor Antonio Bozzano (1858–?). Information: Catalog of American Portraits file, National Portrait Gallery, Smithsonian Institution, Washington, DC. A much earlier (ca. 1860) 2 1/2 x 3 albumen photographic portrait of a standing Ghirardelli by George H. Johnson is in the Portrait Gallery's collection.
 65. Collection Ghirardelli Square, reproduced as the cover of *Ghirardelli Square: One Place in a City's History* (San Francisco: Ghirardelli Square, 1994), an engagingly succinct walking-tour booklet.
 66. "Estate Domingo Ghirardelli, Deceased, no. 14, 521," *San Francisco Law Journal* (March 38, 1896), 1.
 67. P. G. Lawrence oral history, p. 15, reports Angela had 180 shares out of 2,620. Domingo, Jr., at 800, had the most.
 68. Timothy J. Anderson, Eudora M. Moore, and Robert W. Winter, eds., *California Design 1910* (Salt Lake City, UT: Peregrine Smith Books, 1974), 39.
 69. Littell, "Chris Jorgensen," chapter 1, 22–29, 56–60. Williams (for whom the Jorgensens named their only son) and Hill are well-documented California artists.
 70. *Ibid.*, chapter 3, 39. Mathews's brothers were painter Arthur and architect Edgar A., as noted in Richard Longstreth, *On the Edge of the World: Four Architects in San Francisco at the Turn of the Century* (Cambridge: MIT Press, 1983), 395 n. 28. "The Studio" was moved after the couple's years there to Wawona, outside the Valley, where it is now part of the Yosemite Pioneer History Center. Edan Milton Hughes, *Artists in California: 1786–1940*. (San Francisco: Hughes Publishing, 1986), 205.
 71. Carl E. Ackermen, "President Roosevelt in the High Sierra," *Sunset Magazine* (July 1903), 206–211, includes a backs-to-camera photo of the pint-sized trio totally engrossed in conversation.
 72. The Jorgensens collected artifacts and had a bark "ochum" dwelling on their property. Valley champion Galen Clark's self-published 1904 book, *Indians of the Yosemite Valley and Vicinity: Their History, Customs and Traditions*, had Angela's line drawing as its cover and Chris's illustrations inside. Angela's pyrographic portrait of Clark is in the Yosemite Museum collection.
 73. Now on display at the Sonoma Mission, a gift to the State of California in memory of Virgil Jorgensen (the artist's son).
 74. Kevin Starr, *Americans and the California Dream* (New York and Oxford: Oxford University Press, 1973), 267.
 75. With a star-window imitating Carmel Mission. The Jorgensen house is the core of today's La Playa Hotel.
 76. Willard Huntington Wright, "Hotbed of Soulful Culture, Vortex of Exotic Erudition: Carmel in California," *Los Angeles Times* (May 22, 1910), quoted in Littell, "Chris Jorgensen," chapter 4, 45.
 77. Ghirardelli did Cassatt's portrait (now lost), had her own studio, and was helped in Paris by muralist Mary MacMonnies. In 1906, she and Gertrude Partington showed at the American Art Club (scrapbook clips, private collection, San Francisco; California Historical Society artist file).
 78. "Girl is Swept to Death at Sea—Miss Alida Ghirardelli Drowns in Surf, at Carmel-by-the-Sea," *San Francisco Chronicle* (August 17, 1909), 1.
 79. Elmer and Elena Lagorio, "The First Lot Sold in Del Monte Forest," *Scoreboard* [Pebble Beach residents newsletter] (November–December 1996), 6. See also Littell, "Chris Jorgensen," chapter 4, 51.
 80. Littell, "Chris Jorgensen," chapter 5, 42, mentions but does not describe the murals. My mother always said the murals were displayed for a time in a factory warehouse. Dennis de Domenico, the Golden Grain family executive for the Ghirardelli operation in the 1970s and 1980s, told me, around 1985, that the murals were lost when the business was moved from Ghirardelli Square to San Leandro.
 81. 444 Mountain Ave., "The Nest," by Louis Christian Mulgardt, architect of the De Young Museum, built in 1909 for the Charles Fore family.
 82. Archives, Sutherland inventory, 1–6/2.3–1–6/8.3.
 83. The same problem encountered by the Boiardi pasta family of Cleveland, who didn't bother with their real name, just "Chef Boy-Ar-Dee."
 84. Produced by Castle Films, date unknown (Archives).
 85. Brenner, *Emperors of Chocolate*, 109–110, 5. Hershey's desire as early as 1900 was to market its chocolate coast-to-coast.
 86. *Ibid.*, 113.
 87. "Ghirardelli's Men Walk Out," *San Francisco Chronicle* (March 26, 1918).
 88. Two other Ghirardelli men of this generation might have, but did not, participate in the business. Joseph Jr. (1898–1967), a bon vivant, did not take part beyond board service. Edwin "Sid" Ghirardelli (1884–1912) gained experience in a financial firm in Portland, presumably to train for a family position, but died young. In correspondence with the author, historian George Painter has suggested that Ghirardelli, who committed suicide on December 29, 1912, may have been one of some 70 men implicated in the November raids of gay hotels and bathhouses in Portland known as the Vice-Clique Scandal (See George Painter, "The Case of Edward McAllister," *Oregon State Bar Bulletin* [April 2001]). No documentation verifies this, but at the time of his death, the despondent Ghirardelli had been forbidden by parents Domingo, Jr., and Addie to return home for the holidays ostensibly for bad business dealings, as reported in "Cocoa King in the Dark as to Son's Suicide," *San Francisco Call* (January 2, 1913). But a Portland obituary hints at moral issues and reports a cabbie's delivery of the doomed man to a Turkish bath on his last night: "Son of Chocolate Maker Ends his Struggle to Break Away from Evil Ways," *The Oregon Daily Chronicle* (January 7, 1913).
 89. P. G. Lawrence oral history, p. 136.
 90. *Ibid.*, 49.
 91. As represented by Alfred Ghirardelli, Esperance Ghirardelli (Alvord), Clarisse Lohse Ghirardelli, and Louis Ghirardelli, from obituaries and other reports.
 92. Erik Amfitheatrof, *Children of Columbus*, 137.
 93. *Ibid.*, 174–77, 220–222, 323–324.
 94. P. G. Lawrence oral history, pp. 52–53. There is a belief in some San Francisco circles, seldom put in print, that The Family was founded as a protest against the Bohemian Club's anti-Semitism. In fact it was founded (in 1902) by twenty-seven Bohemian Club members and eleven others, many of them journalists, protesting the irrational anti-Hearst newspaper sentiment gripping the club in the wake of the McKinley assassination. Several of the founders, it happens, were Jews belonging to the Bohemian Club. This was not unusual for 1902, as San Francisco men's clubs of that period did welcome Jews and Catholics. However, xenophobia aris-

- ng from World War I changed this tolerant attitude in the Bohemian as well as Pacific Union clubs. By the 1920s these two clubs, according to Robert W. Cherny, "Patterns of Toleration and Discrimination in San Francisco," *California History* (Summer 1994): 138, began a "gradual elimination of Jews from their membership rosters." The Family remained a haven where Alfred Ghirardelli (who joined in 1917) could enjoy fellowship with fellow members named Sloss, Esberg, Hellman, Ehrman, Haas, Dinkelspiel, and others. The tradition of tolerance was there from the beginning: A 1902 Family founders' statement reads, "There should be no distinction of caste or religion" (Arthur Hargrave, *The Family Story: 1902-1977* [San Francisco: The Family, 1978] 2.). Harrison Beardsley, club historian of The Family, helped flesh out this information.
99. P. G. Lawrence oral history, 49. Then and now, because of a port culture, history of multiple rulers, and location near France, the Genoese are the most likely to eschew Italian papal authority; for Ghirardelli, membership in a Masonic order further exemplified his distrust of the Church.
100. Douglas Kiester, *Going Out in Style: The Architecture of Eternity* (New York: Facts-on-File, 1997), 31. "Ghirardelli di Ritorno," *Voce del Popolo* (August 26, 1890), expresses further disdain.
101. Wendy Grissim Brokaw, "With Love and Kisses for the Babies": A History of the George Washington Baker Family of Nevada and California, 1845 to 1964 (Carmel, California: 1985), 188-191 (spiral-bound typed manuscript). Roosevelt and Baker (real name: Earl Bradley Baker) met through the latter's brother Ray, director of the U.S. Mint.
102. 27 Hotaling Place is very near 415-417 Jackson. The Rome commentary is based on spring 1999 conversations with the Bakers' daughter, Carmencita Cardoza (now Mrs. Jose Antonio), who accompanied them.
103. *Social Register, San Francisco including Oakland, 1918* (New York: Social Register Association, 1917), has nine Ghirardelli entries and many Koshlands, Peixottos, de Vecchis, de la Montanyas, Murphys, Caminettis, Lowenbergs, Van Sicklens, Splivalos, Sutros, and Crockers.
104. Ann Swift, "The Ghirardelli Connection," *The Attic Trunk: A Publication of the Piedmont Historical Society* (Spring 2002), 1-8. See also map, P. G. Lawrence oral history, 95b.
105. Edgewood Farm, a Magee property near Mt. Diablo (Mrs. Harry Hush Magee was Juanita Ghirardelli), and Laurel Brook Farm, a dairy run by Virgil Williams Jorgensen, son of Angela Ghirardelli.
106. Joseph Ghirardelli, Jr., in 1927, reported to cousins Alfred and Lyle that a flood had destroyed the Ghirardelli homestead near Santa Anna church (postcard of ruin, Archives). Virgil Jorgensen, in 1925, visited Italian cousins Castegnate, Figallo, and Grasso in Rapallo (Jorgensen papers, Bancroft Library, University of California, Berkeley). Chris Jorgensen painted at least two views of the homestead in 1893 (Seaver Center, note 60, and Mrs. Antonio Cardoza collection, San Jose).
107. P. G. Lawrence oral history, 40.
108. Brenner, *Emperors of Chocolate*, 9.
109. P. G. Lawrence oral history, 74. She went on to have an outstanding career in public service. See "Restless Ladies," *Time* (November 22, 1963 [a small but significant mention of a nine-year PR business with two other women]); Patty McGettigan, "Junior League Leader and Community Contributor/Pioneer," *Fogcutter* (October 1986), and obituaries *San Francisco Chronicle* (December 25, 1997), A24, and *Social Register Observer* (Summer 1998), 84-85.
110. Kent Ghirard and his Hula Nani Girls, as documented in Hans Johannes Hofer, ed., *The Hula* (Honolulu: Apa Productions LTD, 1982), 100-104, 109, 124, 150-151. Ghirard (born 1919) then ran a successful children's pony circus. He still resides in Honolulu. His sister Ynez Ghirardelli (1909-1972) was a well-known Berkeley "character" who left her extensive book collection to the Bancroft Library and made her own contribution to scholarship with a limited-edition fine press volume, *The Artist H. Daumier: Interpreter of History*, (San Francisco: Grabhorn Press, 1940).
111. Ghirardelli studied art with great uncle Jorgensen (Hughes, op. cit.: 205).
112. Jan. 29, 1962, lawyers' report to D. Ghirardelli Co. stockholders (Archives).
113. Lavender, *California*, 395.
114. Jan. 29, 1962, lawyers' report (Archives).
115. Jan. 29, 1962, *Ibid*.
116. Vincent de Domenico, in *The De Domenico Family: Growth of the Golden Grain Company through Innovation and Entrepreneurship* (Berkeley: Regional Oral History Office, Bancroft Library, University of California, 1994). From research notes by Douglas Morse.
117. This is a vivid memory of the author who unfortunately has not been able to track down the newspaper report, ca. 1960.
118. Carolyn Anspracher, "Ghirardelli Square," *San Francisco Chronicle* (July 24, 1963), 1.
119. N. D. De Domenico, in *The De Domenico Family*, 153.
120. Obituary, *San Francisco Examiner* (May 5, 1990). Kent Ghirard, the fourth "Domingo," legally changed his name in the 1950s.
121. Kenneth Howe, "Ghirardelli Square Changes Attraction," *San Francisco Chronicle* (May 14, 1995), 2.
122. Ghirardelli was acquired by the Swiss firm in question in January 1998. In 1986, Golden Grain sold it to Quaker Oats. In 1992 it changed hands to a partnership that began an aggressive expansion, Clifford Carlsen, "Ghirardelli Chocolate Plans National Rollout," *San Francisco Business News* (April 29-May 5, 1994), 1, 17. The approach continues under Lindt, George Raine, "Sweet Sesquicentennial," *San Francisco Chronicle* (June 9, 2002).

Von der Porten, Aker, Allen, Spitze, "Who Made Drake's Plate of Brass?" pp. 116-133

Acknowledgments:

The Drake Navigators Guild began intensive research about the makers of the plate in 1991. Guild member William Duddleson provided encouragement and assistance from the beginning of this project. Guild members Robert W. Parkinson and the late Herbert E. Garcia read the manuscript and provided information. Coauthors Aker, Allen, and Von der Porten are also guild members.

Bancroft Library Director Charles Faulhaber, Assistant Director Peter Hanf, and Curator of Rare Books and Literary Manuscripts Anthony S. Bliss opened the library's plate of brass files to the authors and provided background information. The files revealed the meticulous gathering of information about the plate's history by the late Bancroft Library Director James D. Hart, which allowed this study to reach its present stage. Hanf read an early version of the manuscript.

Members of the Ancient and Honorable Order of ECV provided important information. Emmett Harrington found the only known copy of the Grabhorn letter. Tim Spenser found the tape recording of the 1985 interview with Shumate. Dr. Robert Chandler reviewed an early version of the manuscript and provided encouragement and advice, and current Yerba Buena #1 Chapter Noble Grand Humbug Rick Saber and other Clampers provided ideas and suggestions. Coauthors Allen and Spitze are Clampers.

Albert L. Hurtado generously supplied the manuscript of his study of Herbert Bolton's involvement with the plate and permitted its use, and read an early version of the manuscript. *San Francisco Chronicle* Library Research Director Richard Geiger provided information about key personalities involved with the plate. Jocelyn Moss of the Anne Kent California Room of the Marin County Library made the library's clippings and publications files available. Pacific Union Club Office Manager Patti Barnitz found Boqueraz's membership information.

1. The dates are June 17 to July 23, 1579, old-style. The modern equivalents are June 27 to August 2. The quotation is from the most detailed account of the voyage, which was prepared for and reviewed by Drake but published three decades after his death: Francis Drake [nephew of the circumnavigator] *The World Encompassed by Sir Francis Drake* (London: Printed for Nicholas Bohn, 1628), 80. The original's transpositions of U and V have been modernized. This and other accounts of Drake's visit are accessible in N. M. Penzer, M.A., F.R.G.S., ed., *The World Encompassed and Analogous Contemporary Documents Concerning Sir Francis Drake's Circumnavigation of the World* (London: The Argonaut Press, 1926), and Henry R. Wagner, *Sir Francis Drake's Voyage Around the World, Its Aims and Achievements* (San Francisco: John Howell, 1926). The claim even formed a basis for English claims to eastern North America.
2. Bolton, 1870–1953, came to the university in 1911, became curator of the Bancroft Library in 1916, and its director in 1919.
3. Herbert Eugene Bolton, "Francis Drake's Plate of Brass," a paper read before the California Historical Society on April 6, 1937, and published in *Drake's Plate of Brass: Evidence of his Visit to California in 1579* (San Francisco: California Historical Society, Special Publication No. 13, 1937), 1–2.
4. Albert Shumate, "The Mysterious History of E Clampus Vitus," in Robert F. Schoepner and Robert J. Chandler, compilers, *California Vignettes*, Brand Book 1, (San Francisco: Corral of Westerners, 1996), 39–49.
5. Dane, 1904–1941. Charles L. Camp, "In Memoriam, George Ezra Dane," *California Historical Society Quarterly* XX:4 (December 1941), 381–382. Dane's role as leader of the Yerba Buena Chapter of the Clamper in organizing the Tuolumne ceremony (see below) and when *Ye Preposterous Booke of Brasse* was published (see below) show his intimate knowledge of the hoax. The book's mention of the fluorescent letters "ECV" on the plate and the discovery of fluorescent spots on the plate reinforce the Clamper connection (see below). Dane's reputation as a prankster and his reported role were also referred to in Shumate, "The Mysterious History," 48; Tim Spenser, interviewer, and James M. Spitze, transcriber, "The Perpetrators of the Drake Plate Hoax and the Early History of E Clampus Vitus," a transcription of a May 25, 1985, interview of Albert Shumate, M.D., 2–5; and notes of Shumate interview with William Duddleson and Edward Von der Porten, October 14, 1991. Dane revealed that the plate was a hoax to his close friend and fellow Clamper Edward Bradford Page when the plate's discovery was announced. Page letter to William D. Page, July 24, 1979, and interview with Raymond Aker and Barbara M. Draper, September 22, 1991, recorded in Raymond Aker letter to Robert W. Parkinson, November 5, 1991, and Aker memorandum of January 31, 1999, in Drake Navigators Guild files (contact Edward Von der Porten, EdandSaryl@aol.com).
6. Barron, 1869–1942. A. T. Leonard, Jr., "In Memoriam, George Haviland Barron," *California Historical Society Quarterly* 21:4 (December 1942), 378–379, and "George H. Barron," Obituary, *San Francisco Chronicle* (June 26, 1942), 13.
7. Barron's role is described in "Testimony of Lorenz Noll on Drake Plate," which Noll had dictated to Herbert Hamlin, and in memoranda by the late Bancroft Library Director James D. Hart (August 29, 1977, September 23, 1977, and June 26, 1979) in which he recorded Mrs. Gordon (Emma Culin) White's stories about the plate told her by her uncles Ray (possibly Raynsford) and Will Taylor, both of whom had been close to Barron and his friend George Clark and described them as "pranksters." Mrs. White understood the motivation to have been a friendly joke, presumably aimed at Bolton. Further confirmation of Barron's knowledge of the plate was provided by his daughter, Mrs. Harry Scoble, in two interviews with James D. Hart (August 10 and 25, 1977). All courtesy of the Bancroft Library.
8. Reprinted in Penzer, among others.
9. James D. Hart, *The Plate of Brass Reexamined* (Berkeley: The Bancroft Library, 1977), 9–11, 14–16, citing correspondence by R. B. Haselden of the Huntington Library, Art Collections, and Botanical Gardens and ten others at Oxford University, the British Museum, the Folger Shakespeare Library, the University of California, Berkeley, and the Public Record Office, London.
10. Dr. Cyril Stanley Smith, in Hart, *The Plate of Brass Reexamined*, 73–74, identified the shear. Francis P. Farquhar mentioned a possible Alameda connection in "Drake in California: A Review of the Evidence," a speech to the California Historical Society in 1956, reported in a letter of Robert W. Parkinson to Raymond Aker, November 11, 1956. Charles L. Camp, *Ye Preposterous Booke of Brasse* ([San Francisco]: E Clampus Vitus, 1937, reprinted 1978), 4, gives a brass formula which includes 3.18% tin, evidence that one or more of the makers thought they were using a piece of naval brass, available at a ship chandlery.
11. Clark died in 1942. Obituary, *Oakland Tribune*, January 23, 1942, 32. Clark's role is described in "Testimony of Lorenz Noll on Drake Plate," and in Hart's White memoranda.
12. The letter forms were first commented on by R[eginald] B. Haselden, "Is the Drake Plate of Brass Genuine?" *California Historical Society Quarterly* 16: 3 (September 1937), 272. The supposition that some of the plate's dark surface was caused by mineralized plant material (see caption) was noted in Colin G. Fink, Ph. D., D. Sc. and E. P. Polushkin, *Drake's Plate of Brass Authenticated*, (San Francisco: California Historical Society, Special Publication No. 14, 1938), 14–15, fig. 27. That the letters of the introductory line were not hammered down was noted by Dr. Edwin M. McMillan in a letter to Dr. James D. Hart, August 5, 1977, excerpted in Hart, *The Plate of Brass Reexamined: A Supplementary Report* (Berkeley: The Bancroft Library, University of California, 1979), 5–6. Clark's comment that "GC" comes from his initials is in Hart's White memorandum of June 26, 1979. Hart, in *The Plate of Brass Reexamined*, 12–14, commented on hammer marks over the Vs. The tool used for this hammering is uncertain. Fink and Polushkin believed that it was done with Native American stone "tomahawks." Drake's *Plate of Brass Authenticated*, 11–12, which the Native American peoples of central California did not possess, although they did have hammerstones. *Ye Preposterous Booke of Brasse*, 9–10, suggests that the tool was the round end of a machinist's hammer, a suggestion that has not yet been tested. Professor Earle R. Caley in Hart, *The Plate of Brass Reexamined*, 32–33, commented on the artificial patination.
13. Noll, 1897–1962. "Lorenz Noll," obituary, *San Rafael Independent Journal*, December 26, 1962, 4, and "Lorenzo [sic] Noll," obituary, *San Francisco Chronicle*, December 26, 1962, 44. The spelling of his names caused confusion at times, but Lorenz Noll is correct. Dressler, 1887–1960. Both are named as participants in the conspiracy in Spenser, "The Perpetrators of the Drakes Plate Hoax" and the Shumate interview. *Ye Preposterous Booke of Brasse*, 10, states that ultraviolet light would illuminate the letters "ECV" on the plate and reveal the secret of the plate's makers. This was tested on April 27, 1992, and on June 4, 2002. Small spots of luminescence, not natural to brass, firmly adhere to indentations in the back, around the hole which had been cut out as if to hold an Elizabethan sixpence. No luminescence appeared in the many letter grooves on the front of the plate, showing that the fluorescent material had not come from the soil or the artificial weathering process. Aker memorandum, January 31, 1999, of the first test, in Drake Navigators Guild files. James Spitze memorandum and notes by Edward Von der Porten, June 4,

- 2002, both of the second test. The fluorescent material had survived only in fractures around the hole for the coin grooves because William Caldeira and Beryle Shinn had scrubbed the plate and a group of printers had cleaned the plate with kerosene when Allen L. Chickering, Jr., had taken it to them for advice about making reproductions. Caldeira statement in "Personalalia and Marginalia," *California Historical Society Quarterly* 16: 2 (June 1937), 192. Shinn statement of October 31, 1956, in Walter A. Starr, "Evidence of Drake's Visit to California, 1579," *California Historical Society Quarterly* 36:1 (March 1957), 31. Chickering incident in Albert L. Hurtado, "More Shadows on the Brass: Herbert E. Bolton and the Fake Drake Plate," in Paul Hutton, ed., *Frontier and Region: Essays in Honor of Martin Ridge*. Albuquerque: University of New Mexico Press, 1977, 215-230.
- Shinn statement of October 31, 1956, in Starr, "Evidence of Drake's Visit to California, 1579," 31. According to his obituary, however, he found the plate at the base of the hill next to the San Quentin-Kentfield road. "Beryle Shinn—Discovered Fake Drake Relic," Obituary, *San Francisco Chronicle*, September 5, 1985, 21. That Shinn was the intended finder, perhaps in the company of his unnamed student friend or another person, is improbable. Shinn's character and behavior make his involvement unlikely. Any involvement of the student friend with the plot, and his taking or sending Shinn to the site, would have guaranteed prompt exposure of the hoax by Barron and the others, and that did not happen.
- Shinn statement of October 31, 1956, in Starr, "Evidence of Drake's Visit to California, 1579," 31; *Drake's Plate of Brass*, 19-21, and Shinn letter to Albert E. Doerr, March 29, 1968, reproduced in Albert E. Doerr, revised by Oliver Dunn, "Drake's California Harbor: Another Look at William Caldeira's Story," *Terra Incognita IX* (1977), 57-59. The disappearance of the friend from the story, when he would have been expected to take a continuing interest in the plate's history, remains an unexplained mystery. Perhaps Shinn did not want to share the glory or the reward.
5. *Drake's Plate of Brass*, 1. The date was not recorded.
 7. Bolton's and Chickering's actions have been thoroughly analyzed, using Bolton's personal papers, in Hurtado, "More Shadows on the Brass," 6-11.
 8. *Ibid.*, 11-13.
 9. *Drake's Plate of Brass*, 1-2.
 0. "Personalalia and Marginalia," *California Historical Society Quarterly* 16:2 (June 1937), 192.
 1. Those drawn into the plate story included Professor Bolton, the seventeen California Historical Society officers and members who donated to the society's fund to pay Shinn \$3,500 for the plate (one of them a regent of the university); the historical society's board of directors, which authorized publications about the plate; the University of California faculty members who were consulting with Bolton about the plate; those who supported Bolton's conclusions and contributed to the first publication about the plate; and those privy to the hoax. All donors to the plate fund were society members. They included Allen L. Chickering, the society's president; Sidney Ehrman, a board member; Stuart L. Rawlings, the third vice-president, and Walter A. Starr, who later wrote about the plate. *Drake's Plate of Brass*, 22. Thirteen were University of California graduates, and Ehrman was a regent. Hurtado, "More Shadows on the Brass," 30, footnote 12.
 22. Camp would soon edit *Ye Preposterous Booke of Brasse* (see below). Neither Watson's personality, as attested by Dr. Shumate in Spenser, "The Perpetrators of the Drake Plate Hoax," 3, nor his contribution to *Drake's Plate of Brass* make his participation in the hoax at all likely.
 23. Membership list in *Drake's Plate of Brass*, [61-64].
 24. Bob Cowden letter to the editor, "Fake," *San Francisco Chronicle*, August 1, 1977, 38.
 25. VanderHoof, 1904-1964. "V.L. VanderHoof," obituary, *San Francisco Chronicle*, March 11, 1964, 27. VanderHoof, a friend and colleague of Camp, probably was not one of the hoaxers. Robert Allen letter of January 5, 2002, reporting Clamper Bill Huff's comments on VanderHoof and Dane.
 26. Albert Shumate, "The Mysterious History of E Clampus Vitus," 48.
 27. The "G.H." stands for "Great Hi-oH" in contrast to the "N.G.H." on other Clamper plaques, which stands for "Noble Grand Humbug."
 28. "Some Notes with Regard to Drake's Plate of Brass," *California Historical Society Quarterly* 16: 3 (September 1937), 272-273.
 29. *Ibid.*, 275-281.
 30. In the collection of Drake's plate materials of James M. Spitze, Orinda, California. The letter was mechanically typed under a printed letterhead and over a printed signature. The mention of lead as an alternative material for plates probably was a reference to the *Anonymous Narrative* account of the circumnavigation, which states that Drake's claim marker was made of lead. Wagner, *Sir Francis Drake's Voyage around the World*, 277. The Los Angeles address is odd since the Grabhorn Press was located in San Francisco. The "signer" of the letter, Francis Fletcher, was Drake's chaplain and kept the notes during the circumnavigation which were the basis of the voyage narrative *The World Encompassed by Sir Francis Drake*.
 31. Grabhorn, 1889-1968. Robert Allen letter of September 5, 2001, recounting his father's assessment of Grabhorn and commenting on the letter.
 32. Camp, 1893-1975. Carl Briggs, "Introduction" to the reissue, which revealed Camp's authorship in 1978.
 33. *Ye Preposterous Booke of Brasse*, 2.
 34. *Ibid.*, 4. The brass-bronze statement is correct; however, much zinc-copper brass was imported into England from the Low Countries in the sixteenth century. Both brass and bronze would have been available to take to sea for myriad purposes. Robert J. Chandler letter of October 19, 2001, and e-mail of November 24, 2001, both to James Spitze.
 35. *Ibid.*, 4-5, 9.
 36. *Ibid.*, 10.
 37. *Ibid.*
 38. Robert Allen letters, September 5 and 9, 2001, reporting on Camp's reputation among his peers.
 39. Bolton's comments, quoted in Hart, *The Plate of Brass Reexamined*, 10.
 40. Hurtado, "More Shadows on the Brass," 14-18.
 41. Allen L. Chickering, "Drake's Plate of Brass," in Fink and Polushkin, *Drake's Plate of Brass Authenticated*, 3.
 42. Hurtado, "More Shadows on the Brass," 19-21.
 43. *Ibid.*, 21-22, and Fink and Polushkin, 25.
 44. For instance, Dr. Charles Camp, editor of *Ye Preposterous Booke of Brasse*, flatly told Drake researcher Robert W. Allen that the plate was not genuine during an E Clampus Vitus gathering in about 1968. The conversation was interrupted and not resumed. Camp statement in Allen memorandum of August 5, 1998, in Drake Navigators Guild files. The report was strongly criticized in British scientist W. Hume-Rothery's July 1939 review "Drake's Plate of Brass Analyzed" in the prestigious British magazine *The Geographical Journal* XCIV: 1, 54-55. Professor Earle R. Caley of the Frick Chemical Laboratory at Princeton University sent an undated confidential review of Fink and Polushkin's findings to President Sproul that was very critical and described a method of creating a replica which would have all the characteristics of the plate. "Criticism of Professor Fink's Report," Confidential, to Dr. Robert G. Sproul, President of the University of California, in Hart, *The Plate of Brass Reexamined*, 29-33. Caley's critique was neither published nor made available privately to the scholarly community at that time. A few years later, Professor of

- History Joseph W. Ellison of Oregon State University published "True or False?" in the *Saturday Evening Post* 215: 40 (April 3, 1943), 32, 35–36. Ellison summarized the research about the plate and came to the guarded conclusion that it was authentic. Some critics, notably Henry R. Wagner, never accepted the plate's authenticity, but Fink and Polushkin's work was generally accepted until the 1970s.
45. Spenser, "The Perpetrators of the Drake Plate Hoax," 2–5, and Shumate interview. In the former, Shumate also mentions "a group of Clampers" on 2, but does not name any of these persons as ECV members.
 46. Mike Howe Bellows, "Where was Drake's California Discovery," *The Pony Express* (July 1950), 3–4.
 47. Raymond Aker letter to Edward Page, October 17, 1991, p. 3, and Aker memorandum of January 31, 1999, in Drake Navigators Guild files.
 48. Untitled article about the plate, July 1953, 10; Herbert Hamlin to Henry Wagner, May 19, 1954, and "Testimony of Lorenz Noll on Drake Plate," both courtesy of the Bancroft Library. The date should have been 1937, after Bolton announced the plate discovery, unless Noll was part of the plot originally, as he had told Shumate. Noll's version of the motive, coming not from Barron directly, but from Noll through Clark, cannot be corroborated. If it were true, why Barron failed to expose the hoax to embarrass Bolton is unexplained. The May through December 1954 issues of *The Pony Express* make no mention of Noll's signed statement.
 49. "Drake in California: A Review of the Evidence," *California Historical Society Quarterly* XXXVI: 1, 28, and Robert W. Parkinson letter of November 11, 1956, to Raymond Aker summarizing the speech.
 50. Samuel Eliot Morison, *The European Discovery of America, The Southern Voyages* (New York: Oxford University Press, 1974), 677–680, 687–689.
 51. Hart, *The Plate of Brass Reexamined: A Supplementary Report*.
 52. UC Davis News (July 19, 1991).
 53. Shumate interview.
 54. J. R. Hildebrand, "California's Coastal Redwood Realm" *National Geographic Magazine* LXXV: 2 (February 1939), 137–139.
 55. These included one presented by California Governor Earl Warren at the time of Queen Elizabeth's coronation in 1953 and a gold-plated silver copy given to her by San Francisco Mayor Diane Feinstein in 1983, long after the plate had been exposed as a hoax.
 56. George Davidson, "An Examination of Some of the Early Voyages of Discovery and Exploration on the Northwest Coast of America, from 1539 to 1603," in *Report of the Superintendent of the U.S. Coast and Geodetic Survey . . . Year Ending with June, 1886*, Appendix 7, 155–253, and later publications. This was codified in the *United States Coast Pilot—Pacific Coast—California, Oregon, and Washington, Fourth Edition* (Washington: U.S. Coast and Geodetic Survey, 1889), and continuing to the present. Raymond Aker and Edward Von der Porten, *Discovering Francis Drake's California Harbor* (Palo Alto, CA: Drake Navigators Guild, 2000) contains the most recent summary of this complex story.
 57. "Archaeological Evidence of Sebastian Rodriguez Cermeño's California Visit in 1595," *California Historical Society Quarterly* 20: 4 (December 1941), 315–328.
 58. *The Drake and Cermeño Expeditions' Chinese Porcelains at Drakes Bay, California, 1579 and 1595* (Santa Rosa and Palo Alto, CA: Santa Rosa Junior College and Drake Navigators Guild, 1981).
 59. The Guild, which is still active, searched for traces of the camp, then broadened the researches to encompass navigation, cartography, hydraulics, botany, zoology, archaeology, and other fields that could add information about Drake's visit.
 60. Summary and bibliography in Aker and Von der Porten, *Discovering Francis Drake's California Harbor*.
 61. Edward P. Von der Porten, "Archaeological Investigations at Limantour Spit, Point Reyes National Seashore, 1997–1998. A Search for the Campsite, Boatbuilding Site, and Cache of the Sebastian Rodriguez Cermeño Expedition of 1595 and the Drake Plate of Brass Post Location." Conducted under Federal Antiquities Permit WR-1979–97-CA-3. Ms. on file with the National Park Service.
- Von der Porten, Aker, Allen, Spitze, "When Was the Plate Created?" p. 122**
1. "Testimony of Lorenz Noll," Bancroft Library.
 2. Leonard, "In Memoriam, George Haviland Barron." A Mrs. Benton, who knew Barron's relationship with the museum, stated that Barron has no association with the museum after his retirement. Hart interview of September 6, 1977, recorded in memorandum of September 7, 1977, courtesy of the Bancroft Library. The possibility that Clark thought Barron had returned to the museum to obtain the metal after his retirement, although unlikely, cannot be ruled out.
 3. J. Porter Shaw letter to Captain Adolph S. Oko, September 23, 1952, in Drake Navigators Guild files, mentioning that Blake told Shaw about the hunting trip a few days after the Caldeira story was published. Blake later became president of both organizations. Laguna Ranch was owned by Leland S. Murphy and leased a hunting preserve to the Marin Country Club, which was leased by the Pacific Union Club of San Francisco, of which Bocqueraz was a member. Personal communication from Patti Barnitz, Office Manager, Pacific Union Club, to Edward Von der Porten. Blake apparently was a guest.
 4. Caldeira statement given to Allen L. Chickering, recorded in "Personalalia and Marginalia" *California Historical Society Quarterly* 16:2 (June 1937), 192, shortly after the announcement of Shinn's find.
 5. Starr, "Evidence of Drake's Visit to California, 1579," 33.
 6. Caldeira Statement in "Personalalia and Marginalia," and Walter A. Starr, "Drake Landed in San Francisco Bay in 1579, The Testimony of the Plate of Brass," Addendum to the *California Historical Society Quarterly* XLI: 3 (September 1962), 18.
 7. Caldeira Statement in "Personalalia and Marginalia," and Starr, "Evidence of Drake's Visit to California, 1579," 33–34.
 8. "Personalalia and Marginalia."
 9. Parson supposedly later collected it, after which it disappeared. Notarized statement of August 10, 1990, courtesy of George Epperson.
 10. Notarized statement of August 13, 1990, courtesy of George Epperson, Drake Navigators Guild files. Both Schattl and Cattaneo died some years ago. Their stories were recorded more than sixty years after the events they describe and are unverifiable.
 11. Caldeira's story was checked by interviewing Mrs. Caldeira, recorded in "Personalalia and Marginalia," and Bocqueraz, recorded in Starr, "Evidence of Drake's Visit to California, 1579," 33, and Starr, "Drake Landed in San Francisco Bay in 1579," 18. The distance is sometimes quoted as three-quarters of a mile, based on two maps in Starr, "Drake Landed in San Francisco Bay," 12–13, whose scales are incorrect. Beryl Shinn's obituary in the *San Francisco Chronicle* stated that he had found the plate "while hiking along the muddy Marin County shoreline near Corte Madera," approximately the location where Caldeira said he had thrown it away, not the ridge top. The source of the statement is unknown. Among those doubting that Caldeira had found and discarded the Shinn plate were Doerr in "Drake's California Harbor: Another Look at William Caldeira's Story," 49–55; Farquhar in "Drake in California: A Review of the Evidence," 28, and Starr in "Evidence of Drake's Visit to California, 1579," 34.
 12. This scenario is favored by co-author James M. Spitze.
 13. "Testimony of Lorenz Noll."
 14. Hart's White memorandum of August 29, 1977.

Monroy, "Ramona, I Love You," pp. 134-55

"Ramona," lyric by L. Wolfe Gilbert, music by Mabel Wayne. Published 1927 by Leo Heist, Inc. New York.

2. Douglas Monroy, *Thrown among Strangers: The Making of Mexican Culture in Frontier California* (Berkeley and Los Angeles: University of California Press, 1990), 64.

3. Carey McWilliams, *Southern California: An Island on the Land* (Santa Barbara and Salt Lake: Peregrine Smith Publications, 1946, 1979), 70-77.

4. George Wharton James, *Through Ramona's Country* (Boston: Little, Brown and Company, 1911), 62, 363.

5. James, *Through Ramona's Country*, 60, 273; Helen Hunt Jackson, *California and the Missions* (1883; Boston: Little, Brown & Company, 1902), 77.

6. James A. Sandos, "Historic Preservation and Historical Facts: Helen Hunt Jackson, Rancho Camulos and Ramonana," *California History* 76:3 (1997), 181; *The Annotated*

Ramona, with introduction and notes by Antoinette May (San Carlos, CA: Wide World Publish/Tetra), 149.

7. G. W. James, *Through Ramona Country*, 94-115; Phil Brigandi, "Rancho Camulos: The Home of Ramona," *Ventura County Historical Society Quarterly*, 42: 3 & 4, 15-23; Sandos, "Historical Preservation and Historical Facts," 179-183; William Alexander McClung, *Landscapes of Desire: Anglo Mythologies of Los Angeles* (Berkeley and Los Angeles: University of California Press, 2000), 77-78; McWilliams, *Southern California*, 165-182.

8. The quote is from "The Story of Ramona's Marriage Place," (No. San Diego: Ramona's Marriage Place, ND), 3. See also pages 5-7 on this matter of ignoring the full story.

9. All quotes from the novel are cited in parentheses. While there have been numerous editions of *Ramona* I have used the popular Avon paperback edition (New York, 1970).

10. Helen Hunt Jackson, *A Century of Dishonor: A Sketch of the United States Gov-*

ernment's Dealings with Some of the Indian Tribes, revised ed. (Boston 1893), 459-463; George Harwood Phillips, *Chiefs and Challengers: Indian Resistance and Cooperation in Southern California* (Berkeley and Los Angeles: University of California Press, 1975); Monroy, *Thrown among Strangers*, 237-245.

11. McWilliams, *Southern California*, 24.

12. Fray Antonio Peyri to Juan Bandini, December 25, 1828, Stearns Papers, Huntington Library.

13. James, *Through Ramona Country*, 60.

14. Sir George Simpson, *Narrative of a Journey round the World, during Years 1841 and 1842* (London: Henry Colburn, 1847), 1: 387.

15. McClung, *Landscapes of Desire*, 78.

16. Nicolas Kanellos, *A History of Hispanic Theatre in the United States: Origins to 1940* (Austin: University of Texas Press, 1990), 44-59, 65-69; *La Opinión*, November 27, 1928; Douglas Monroy, *Rebirth: Mexican Los Angeles from the Great Migration to the Great Depression* (Berkeley and Los Angeles: University of California Press, 1999), 44, 169.

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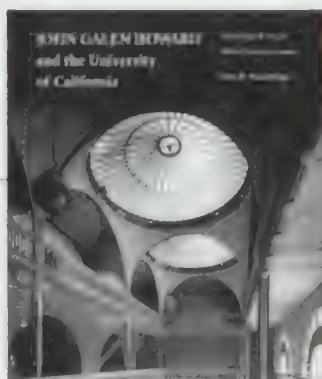
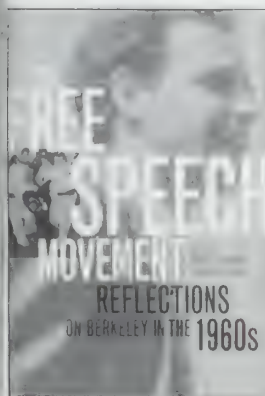
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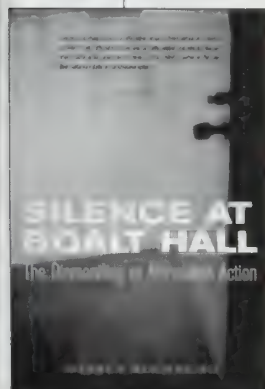
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Photographer Malcolm Lubliner captured the apparition of a once-thriving gold country town on a visit to Volcano in 1982.

The Amador County town was once a hive of gold rush activity. It had its own post office in 1851 and a cutoff on the Carson Route. Noted resident John Doble in his diary in 1852, "The Emigration is coming in rapidly at the rates of 10 to 20 wagons a day & every two or 3 wagons a family sometimes two or three. . . ." At the end of the year he wrote: "There is now in this Town Eleven stores 1 Restaurant 3 Bakeries 6 Hotels 3 private Boarding Houses & 3 Bars & Gambling Houses one of the Bars is in an Apothecaries shop which leaves only two Gambling Houses."

The limestone structure was built in 1855 by John, Reuben, and George Frye and was once called the "two saloons building." It now fronts the outdoor Volcano Theater. By 1865 most of the gold had played out and residents began to leave. Some 2,500 residents now make Volcano and its environs their home.

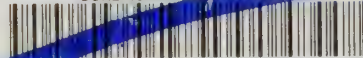
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VOLUME 81, NUMBER 3/4, 2003



TAMING THE ELEPHANT: POLITICS, GOVERNMENT,
AND LAW IN PIONEER CALIFORNIA

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C THE MAGAZINE OF THE CALIFORNIA HISTORICAL SOCIETY CALIFORNIA HISTORY

VOLUME 81 NO. 3/4, 2003

Readers of *California History* have noticed that for each of three years following 1998, a weighty issue like this one has arrived in their mailboxes in place of the slimmer, lighter, taller, issue of the quarterly. This special edition of *California History* is the final of four volumes in the California Historical Society's California History Sesquicentennial Series, a distinguished compilation of original essays by leading writers reinterpreting important themes of early California history. Published simultaneously as books by the University of California Press, and commemorating the state's 150th anniversary, the four volumes in the series are *Contested Eden: California before the Gold Rush* (1998); *A Golden State: Mining and Economic Development in Gold Rush California* (1999); *Rooted in Barbarous Soil: People, Culture, and Community in Gold Rush California* (2000); and the current volume, *Taming the Elephant: Politics, Government, and Law in Pioneer California*.

Cumulatively, these four matched volumes of the California History Sesquicentennial Series—books, not journals—collect the best judgment of fifty of the state's finest scholars on the meaning of early California history, particularly from the perspective of the present. They are unique, valuable works for reading now, and for reference in the future. The profound foresight and insight of Richard J. Orsi, emeritus professor of history at California State University, Hayward, and emeritus editor of this quarterly, have powered the process—from inception to production—that has resulted in these four very special volumes. The authors, editors, and the California Historical Society's officers and staff submit them as contributions to the state's commemoration and evaluation of its past, and they all join me in expressing the hope that these books will stand as lasting benefits to the society's members and to all people who are stimulated by California's history.

Janet Fireman
Editor

This special Sesquicentennial issue is made possible through the generous support of the Mericos Foundation, the California Supreme Court Historical Society, the Foundation of the State Bar of California, the University of California Press, the California State Archives Foundation, California State University, Hayward, and Loyola Marymount University, Los Angeles.



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Taming the Elephant

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1. *Contested Eden: California before the Gold Rush*, edited by Ramón A. Gutiérrez and Richard J. Orsi
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Taming the Elephant

POLITICS, GOVERNMENT, AND
LAW IN PIONEER CALIFORNIA

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On the cover: Marius Dahlgren, detail from *Alameda County Courthouse, East Oakland (East Side of Lake Merritt Looking West)*, 1882. Oil on canvas, 11 × 17½ in. Courtesy Oakland Museum of California, Oakland Museum of California Kahn Collection.

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Preface

As much as today's state legislators, officials, and bureaucrats are criticized in California—sometimes with just cause—the first generation of political and governmental leaders was even more vilified in its own day. Many of them, it turned out, were—like their fellow Argonauts—short-termers, more passionate about “making their pile” and heading back to where they had hailed from than they were about building a new community and polity. Addicted to party and factional infighting, giving and receiving patronage, and even on occasion fighting or dueling to redress petty slights or to get their way, California's “founding fathers” were roundly condemned for their corruption, low moral standards, and general lack of accomplishments. Meeting in the winter of 1849–50, the first body of representatives, for example, was widely ridiculed as the “Legislature of a Thousand Drinks.” Nor did governors escape the representatives' ill repute. Contemporary historian Hubert Howe Bancroft criticized the first governor, Peter Burnett, as “too slow in action, too wordy in speech, too conservative for the period, and too prejudiced for the rapid changes taking place”; even Burnett described himself as having “feeble abilities . . . [that] allowed me to accomplish so little for the state.” Another early governor—John McDougal—the public labeled “that gentlemanly drunkard.”

With a few exceptions, later historians have followed the lead of the state's first citizens. In historical accounts, the first politicians, to the extent that they are even discussed, are portrayed as self-interested, disengaged, racially prejudiced, and venal, or at best incompetent. As a result, historians treat pioneer California's government as generally ineffective in coping with the great challenges of rapid population growth and economic change. Most often, however, in the historical literature, the establishment of early government in the state is simply ignored.

The first major dissenter from this evaluation, the first to take the subject seriously

and to examine the creative origins of state government, was Gerald D. Nash, the recently deceased major historian of the American West. Nash's pioneering work *State Government and Economic Development: A History of Administrative Policies in California, 1849-1933* (Institute of Governmental Studies, University of California, Berkeley, 1964), demonstrated that many Californians, like pioneers on all previous frontiers, demanded effective government to facilitate and regulate economic development. In response to pressures from groups in the state, early officials, often drawing on their political and administrative experiences from before they arrived in the new Golden State, met challenges creatively, if not without error. As a result, reasonably effective laws guiding economic development were passed and state agencies were founded and took on the great challenges of encouraging and regulating transportation systems, business, mining, agriculture, and the administration of the state's public lands. Implicit in the book was a revolutionary reinterpretation of early state government, but, although subsequent historians read and cited Nash's book, few of them took up his themes for further study and elaboration.

That is precisely what the scholars in the current volume, *Taming the Elephant*, propose to do. Discarding common preconceptions in analyzing politics, government, and law in California from 1846 through the adoption of the second state constitution in 1879, the authors examine patterns of interest and politics, the inception of constitution, law, jurisprudence, government-agency formation, and public policy. In studying the building of what has come to be called "the public sector," the authors chart out the roles played by diverse groups—from criminals to peace officers, judges, and attorneys, from entrepreneurs to miners and farmers, from voters to elected and appointed officials, from defenders of traditional racial and gender oppression to emerging articulate women and African Americans. Along the way, some of these essays investigate subjects largely overlooked in the past, including the origin and significance in pioneer California of local and federal government, as well as civil rights for women and racial minorities.

All of this volume's authors discover ambiguity and contradiction: a body of civil rights achieved by oppressed groups, but evolving within a society that remained fundamentally racist and sexist; strengthening traditions of law, order, and social responsibility emerging in a population prone to self-aggrandizement, violence, and disregard of community values; enlightened laws passed by a legislature that refused to provide sufficient funds to enforce them; dedicated officials attempting to work for the general welfare while self-seeking, factionalism, and corruption still tainted public affairs; effective government coexisting with favoritism, inefficiency, and inequity. Nevertheless, workable forms of government took shape; nagging problems of settlement and economic development were addressed, even while some were ignored and worsened; and legacies were created for future Californians that have lasted to the present day.

Taming the Elephant: Politics, Government, and Law in Pioneer California is the fourth volume in the California History Sesquicentennial Series, presented by the California Historical Society—the state's officially designated historical society—and the University of California Press, with the support of California State University, Hayward, and many other partners. Four topical, but interrelated, volumes, published beginning in 1998, reexamine the meaning, particularly from today's perspective, of the founding of modern California in the pre-1848 and gold-rush-era experiences. Each of the volumes collects essays by authors, drawn from the ranks of leading humanists, social scientists, and scientists, reviewing the best, most up-to-date thinking on major topics associated with the state's pioneer period through the 1870s. The authors have been asked to consider, within their area of expertise, the general themes that run through all four volumes: the interplay of traditional cultures and frontier innovation in the creation of a distinctive California society; the dynamic interaction of people and nature and the beginnings of massive environmental change; the impact of the California experience on the nation and the wider world; the shaping influence of pioneer patterns on modern California; and the importance and legacy of ethnic and cultural diversity as a major dimension of the state's history.

The California History Sesquicentennial volumes have been published simultaneously as expanded issues of *California History*, the quarterly of the Historical Society, and as books for general distribution. Each volume has been co-edited by Richard J. Orsi, Professor of History (now emeritus), California State University, Hayward, and editor (now emeritus) of the quarterly, who has worked with a consulting editor who is a leading scholar in the specific field. Volume 1 in the series, *Contested Eden: California before the Gold Rush*, co-edited by Ramón A. Gutiérrez, Professor of Ethnic Studies and History, University of California, San Diego, and issued in 1997/98, dealt with the social, economic, cultural, political, and environmental patterns of Native American, Spanish, and Mexican California through 1848. Volume 2 in the series, *A Golden State: Mining and Economic Development in Gold Rush California*, co-edited by James J. Rawls, member of the history faculty at Diablo Valley College, and issued in 1998/99, examined the pioneer industry of gold mining, its inception and development, and its impact on the state, the West, and the national and world economies. Volume 3 in the series, *Rooted in Barbarous Soil: People, Culture, and Community in Gold Rush California*, co-edited by Kevin Starr, State Librarian of California, and issued in 2000, focused on the Gold Rush and the migration and settlement of peoples, cultures, organizations, and institutions. Volume 4, the present work, co-edited by John F. Burns, former California State Archivist and State Historian and currently history and social science consultant with the California Department of Education, investigates the inception of government and politics—statehood, early constitution-building, law, bureaucracy, and civil rights.

The California Historical Society's issuing of these major sesquicentennial publications is made possible through the contributions of all the Society's members, as well as a host of direct and indirect supporters. Chief among the helping agencies are the University of California Press, the California State Archives, California State University, Hayward (which until 2001 furnished support for editing the quarterly and these special issues), Loyola Marymount University (Los Angeles), the California Supreme Court Historical Society, the Foundation of the State Bar of California, and the Mericos Foundation of South Pasadena, which has provided a generous grant specifically for the Sesquicentennial Series.

Many individuals have also shared their time, knowledge, energy, and resources. The Historical Society's particular appreciation goes to Executive Directors emeriti Michael McCone and Michael Duty, whose dedication to the Society, faith in its quarterly, and executive ability made this series possible; Lynne Withey, Director of the University of California Press, who has been an indispensable part of the Sesquicentennial History project from inception to completion; Mrs. Johan Blokker of the Mericos Foundation, whose belief in the project has been critical to its success; John F. Burns, co-editor of this volume, who from the beginning of the series was an important contributor to the conceptualization of this volume and whose unique perspective as the major historian of California's state government has added immeasurably to the quality of its contents; Dr. Janet Fireman, Editor of *California History*, who picked up the torch on the Sesquicentennial Series and graciously shepherded this volume through to completion; Dr. Norma Rees, President, and Dr. Frank Martino, Vice President and Provost, California State University, Hayward, who have provided generous assistance for the Sesquicentennial Series and the general editing office of *California History*; Dr. Henry Reichman, Chair, Department of History at California State University, Hayward, as well as other history colleagues, who during the publication of each of the sesquicentennial volumes, as in all the issues of the quarterly, made available the magnificent resources and staff of the department to encourage and assist the quarterly; Dr. Kevin Starr, State Librarian of California and preeminent scholar of California culture, whose enthusiastic support of the California History Sesquicentennial Series project when he was a Trustee of the California Historical Society and chair of its Publications Committee was indispensable to the development of the series, as well as of volume 3 specifically; Joshua Paddison and Teena Stern, insightful historians and illustrations editors of this volume, who discovered, edited, and captioned a magnificent set of images, in many cases never before published; Marlene Smith-Baranzini, historian, author, associate editor of *California History*, and true partner in every facet of this volume, this series, and all other undertakings of the quarterly; and Anthony Kirk, cultural historian and expert on California iconography, who has for a decade served as an invaluable consultant and friend of the quarterly on the history of art and photog-

raphy and many other subjects of which he is a master. Other important contributors included our sharp-eyed assistant editors Joshua Paddison, Peter Orsi, and Zac Baranzini; Liz Ginno, historian and member of the library faculty at California State University, Hayward; and Larry Campbell, Patricia Keats, Jennifer Liss, Scott Shields, Emily Wolff, Bo Mompho, Judith Deaton, Tanya Hollis, and other members of the loyal, dedicated, and professional staff of the California Historical Society, San Francisco.

Our thanks also go to all the individuals and institutions who made it possible to use images from their collections in this work or who provided other assistance. Many of the following not only participated in important ways in the preparation of this volume, but have served as friends and invaluable resource persons over years of *California History's* publications. Although space precludes listing all their names, special mention should be made of Dace Taube, Curator, Regional History Collections, Doheny Library, University of Southern California, who served, as always, as a knowledgeable and generous adviser on illustrations for the quarterly; Peter Blodgett and Jennifer Watts, the Huntington Library; Jeff Crawford, Placer County Department of Museums; Jack von Euw and Susan Snyder, the Bancroft Library; Ellen Harding and Gary Kurutz, the California State Library; Genevieve Troka, California State Archives; Diane Curry, the Oakland Museum of California; Pat Johnson, Sacramento Archives and Museum Collection Center; Mary Haas, Fine Arts Museums of San Francisco; Vito Sgromo, California State Capitol Museum; and Peter E. Palmquist of Arcata, California, photographer, photography collector, and, of course, the leading historian of photography of the American West.

One final debt needs acknowledgment: there can be no more talented, exacting, resourceful, dedicated, and collegial an editor than Kathleen MacDougall, our project editor at the University of California Press, who has now guided and speeded the production of the last three volumes of the Sesquicentennial Series.

Stephen Becker
Executive Director,
California Historical Society

Richard J. Orsi
Professor of History (Emeritus),
California State University, Hayward,
and Editor (Emeritus), *California History*



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Taming the Elephant

An Introduction to California's Statehood and Constitutional Era

John F. Burns

The phrase “seeing the elephant” was frequently used during the California Gold Rush by western sojourners to describe their encounters with strange and alien situations or exotic and enlivening experiences—something as unique as actually seeing an elephant was at that time. The reality of seeing the elephant sometimes did not match the anticipation of the event. Thus, “seeing the elephant” became an apt metaphor for the Gold Rush, in which most people found more disappointments than riches. Although the phrase was generally applied to a gold-seeking adventure, the task of bringing discipline and order to the new state’s politics and government in its chaotic infancy was a mammoth undertaking in its own right. California’s extraordinary gold-rush-induced growth during a period of difficult transition from Mexican to American sovereignty was a challenge of elephant-like dimensions, as the essays in this book demonstrate. Those people involved in early California governance not only “saw the elephant,” but they also had to attempt to corral it.

The extraordinary and rapid development of California’s public sector after 1848 is a fascinating but largely obscure story. Driven by the rare occasion of immediate statehood and the subsequent necessity to quickly institute a broad range of civic activities, governmental development played a key role in the transformation of California from conquered place and unbridled frontier into a viable entity that could take its place alongside the other states of the Union. But how instrumental was that role in the making of California as we know it? Although the social, cultural, and economic ramifications of California’s first thirty years as a state have been treated extensively in historical literature, no comparable body of work has yet emerged that thoroughly delves into the public arena. The state sesquicentennial anniversary prompted the preparation of several excellent new works on the Gold Rush and its



Constitution Wall, entitled "Rights," part of the Golden State Museum in the California State Archives in Sacramento, invites today's Californians to consider what ideas and values state government should represent. The six-story wall is covered with words and phrases from the California constitution that shift in prominence as the angle of sunlight changes throughout the day and year. *Courtesy California State Archives and Golden State Museum.*

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aftermath, but the emergence of the state and its public institutions has been ignored or, at best, slighted.

A prevalent notion is that California's early efforts at government were unimportant, incompetent, and principally devoted to fleecing whatever unfortunate souls could be victimized. Historian J. S. Holliday recently contended that "certainly no other state endured an adolescence so orphaned from the steadying hand of enlightened leadership as California . . . narrow ambition and greed ruled the time. . . . California did not inspire political idealism [and] statecraft seemed a pestering distraction." Earlier authors were no more complimentary. Andrew Rolle, for instance, echoed Hubert Howe Bancroft's characterization of the state's politics as permeated by "corruption, mediocrity, and bossism," and Rolle labeled the constitutional era "one of the dullest periods in California's political life."¹

Yet that may not be the whole story. In his interpretive history of the state, Edward Staniford, for example, maintained that "party and public affairs rumbled with political turbulence. In such precarious times, mixed concentrations of people produced unstable and unrestrained communities. The California cauldron was boiling with the elements of both lowly and heroic achievement." Even more affirmative, Judson A. Grenier called California's initial political period "almost as important as gold in shaping the state." Indisputably, government agencies and public policy were formed and civic activities undertaken in the frontier period, and it is reasonable to assume that, to some degree, they affected subsequent California politics and government. Staniford asserted that the leadership impulses, political bargaining, and interest-group pressure that characterized California's early governmental efforts continue "to be the basic manner of operation of California's party and governmental system."²

The essays in this volume begin an overdue examination of some of these issues and test and modify long-standing perceptions. It is hoped that these brief treatises will tantalize others to initiate more thorough study of the seminal elements and individuals, both the base and the noble, that shaped the founding of California's public affairs. Historian William Leuchtenburg asserted in 1986 that "there is mounting evidence of a renascent interest in political history" and that such study would be "the historian's next frontier." In California, at least, the opportunity exists to realize Leuchtenburg's prediction, and with greater knowledge of California's political and governmental legacy, society might gain a needed, more comprehensive understanding of contemporary California's public environment.³

What to do about governing California was an urgent matter confronting the nation in 1849. Congress, typically not the speediest of bodies and hamstrung by the very tenuous balance between free and slave states, could not immediately decide, presenting those living or arriving in California with a serious situation as to governance.

General Bennet Riley, the appointed military governor, presided by treaty over an area of the United States that was no longer simply a conquered province but one that was transiting from one type of civil administration based on Spanish and Mexican codes to another, very different type rooted in common law derived from English and American precedent. And this was occurring in an incredibly tumultuous socioeconomic environment caused in large measure by the Gold Rush, leading Riley to describe with considerable restraint the governmental situation as "the embarrassments of our present position."⁴

There were certainly pressing concerns. The signing of the Treaty of Guadalupe Hidalgo in 1848 concluded the armed conflict between the United States and Mexico and transferred what is now the southwest United States to American jurisdiction. It was a lightly occupied, vast area that gained worldwide attention with unprecedented speed. The discovery of gold in early 1848, even before the treaty had been ratified by the U.S. Senate, fueled extensive journalistic coverage and hype and launched a rush of mostly young men (and a few women) from all regions of the globe, but especially from the eastern United States, into the ports and then the foothills of northern California. While Riley was confronted with congressional inaction in the middle of 1849, California's population was increasing dramatically. Within a year the nonnative population would double to around a hundred thousand, ten times that of 1846. Of the migrants, about 80 percent were young males—in the 1850 census, fifty-eight thousand of these said they were miners.

What they discovered when they arrived in California was exceptional. The former Spanish-Mexican economy had been mostly based on subsistence for relatively few people. Then, in the instant boom of the Gold Rush, scarcity became the rule. Everything, including much food, had to be imported. Many new arrivals to mushrooming cities such as Sacramento lived in tents. Most early buildings were prefabricated and shipped to California. Prices were bizarre; items could cost twenty or more times what they did in the East, such as a dollar for a mere egg. There were few roads, and transportation was mostly limited to navigable waterways. Living conditions could be harsh. When Frank Marryat arrived in Sacramento he found it "terribly dusty . . . the dirtiest dust I ever saw, never visited by a shower until the rainy season sets in and suddenly converts it into a thick mud," overrun by "rats distinguished for their size and audacity" that "come out after dark in street gangs, as if the town belongs to them, and attack anything."⁵ Diseases such as cholera became epidemic. Public and governmental operations were virtually nonexistent.

It is difficult to imagine how overwhelming this situation was to the Mexican Californians (*Californios*), who soon constituted less than 5 percent of the population, or the disastrous consequences to the Native American peoples and their way of life. Even the migrants themselves were often caught bewildered. Gold seekers who left San Francisco for a mere three months found upon their return that the



Benicia, a major supply stop for prospectors on their way to the Sierra foothills, briefly served as the state capital during the legislature's fourth session, in 1853. This building, originally intended to be Benicia's city hall, is the only pre-Sacramento state capitol still standing today. *Courtesy City of Sacramento, History and Science Division, Sacramento Archives and Museum Collection Center.*

town had quadrupled in size. The existing governmental institutions of a formerly pastoral, now conquered, California did not have a chance of coping with such a demographic onslaught. Moreover, most gold seekers did not view California as a permanent destination and had little interest in civic affairs. The majority of the young men heading for the gold-saturated foothills were passing through; they talked about "making their pile" and going home. When the California constitution was put up for ratification in late 1849, with virtually all white men able to vote, "interest could not have been intense," and only about 15 percent exercised the franchise.⁶

But there were also growing numbers of merchants, lawyers, city builders, and tradesmen who needed reliable governmental order. To these people, many of them intending to stay, Riley's "holding pattern" of governing through existing formerly Mexican institutions, with a small military presence backing it up, was very unsettling. Where was the guarantee that, if you bought property, it would be recorded properly? Who would maintain these government records? Could your person and belongings be made secure? As David Alan Johnson observed: "Mexican law was alien and could not provide the desired framework to order the complexities of an instantly cre-

ated market economy.”⁷ Not even a rudimentary legal system existed in the mining regions, which lacked any significant earlier Spanish-Mexican presence. It was up to the new arrivals to determine what to do, and the response was *ad hoc* mining camp “law.” More than five hundred camps adopted local mining codes. There were influences on those codes from Spanish-Mexican, English, and other customs, but underlying them was pragmatic American frontier self-government, coupled with “vigilance” promptly laid upon alleged lawbreakers. Today, such justice administered by miners is often considered arbitrary and unjust, but one scholar’s reexamination of the evidence submits that “in cases of severe antisocial behavior, such as theft, homicides or attempted rape, and in cases involving mining claims or possessory rights, they had a clear understanding of legal customs and tried to abide by them.”⁸

In the mining camps, apart from the establishment of necessary local codes to regulate mining claims and assure a modicum of order, state-making and politics generally were not a matter for much attention. The movement for a more regularized system of government was one urged by a few city dwellers and property holders. To these individuals, “public order and commercial opportunity demanded the certainty of American law.”⁹ By the middle of 1849 this element of the population was already largely American, entrepreneurs who had come west in search of opportunity, full of the ebullience of a victorious people, confident in the values that underpinned and promoted western expansion. They were the young, impatient, eager children of Manifest Destiny, who created “a new state based on their collective experience. The new society was a California version of the American system—so unlike its Mexican predecessor and its American successor, yet a genuine blend of both. That society was democratic with a note of racial discrimination. It favored individual enterprise over corporate enterprise, and professed liberal sentiments while including conservative restraints.”¹⁰

On June 3, 1849, Riley issued the proclamation that would move California to a more stable government and eventual statehood. He was influenced to make this decision by virtue of an expanding population that had overwhelmed the existing structure and that was relentlessly and restlessly moving toward self-government in any event. As in the mining camps, communities were taking action on their own. In Sacramento, for example, “activists in the local area moved to create a municipal government . . . without mandate or direction from higher authority.”¹¹ Using Congress’s failure to act on the question of California’s status as a rationale, but with no legal authority, Riley proclaimed that “it becomes our imperative duty to take some active measures to provide for the existing wants of the country . . . by putting in full vigor the administration of the laws as they now exist. . . . While at the same time a convention . . . shall meet and frame a State constitution or a Territorial organization, to be submitted to the people for their ratification, and then proposed to Congress for its approval.”¹²

Early in September 1849 a total of forty-eight delegates elected from districts around the state assembled in Monterey to begin drafting a state constitution. The majority quickly decided to opt for statehood, despite reservations by the minority of landowning delegates from southern California, who rightly feared that they would be beleaguered by excessive property taxation to support the government, and who therefore favored territorial status. The delegates were not a representative body of those who were in California at the time. In keeping with the practices of the era, there were no women, Native Americans, African Americans, or anyone of Asian descent. Only eight were Hispanic. Southern California had eleven delegates, well outnumbered by those from the far more populous north. They were young; half were under thirty-five. They were not Forty-niners, as most of them had been in California for three years or more. They were not primarily miners. Several delegates from the mining districts did not attend, because they were busy working their claims and, for them, the pursuit of gold took precedence over constitution-making. Fourteen, or 30 percent, were lawyers. Eleven were farmers, and seven were businessmen. One described himself as a man of "elegant leisure," though what that pursuit entailed remains a matter of speculation.

Robert Semple, the convention president, in his opening address said, "I am confident . . . that we can prove to the world that California has not been settled entirely by unintelligent and unlettered men."¹³ The principal model that delegates followed in crafting the California constitution was that of Iowa, although elements of other state constitutions were also included. Nonetheless, as they framed the various provisions and debated their construction, the delegates encountered situations that demanded a novel, California solution. One of these was the question of what to do about married women's property, and it was proposed that the existing Mexican practice be followed. Under Spanish and Mexican civil law a woman retained legal right to property she acquired as an individual before and during marriage. English common law, however, to which many of the convention delegates were predisposed, ordained that all property of a woman became legally owned by her husband upon marriage. Heated arguments ensued. Charles T. Botts, a married proponent of the common law, pleaded that "the God of nature made women, frail, lovely and dependent . . . the only despotism on earth that I would advocate is the despotism of the husband." But bachelor Henry Halleck, backed by the Hispanic delegates and those who were younger, rejoined, "I am not wedded to the common law, or the civil law, or yet to a woman . . . but I do not think we can offer a greater inducement for women of fortune to come to California," arguing that it was the best way to get wives. Halleck's practical argument was more persuasive, and the proposal passed.¹⁴ A suggestion by the southern California delegates to publish all laws in both English and Spanish was also accepted.

One of the most engaging questions to face the convention was the issue of

PEOPLE'S TICKET.

Judge of the Superior Court.
PETER H. BURNETT.

Prefect.
HORACE HAWES.

Sub Prefects.
FRANCISCO GUERRERO.
JOSEPH R. CURTIS.

First Alcalde.
J. W. GEARY.

Second Alcaldes.
FRANK TURK.
JOHN VIOGET.

Town Council, or Ayuntamiento.
TALBOT H. GREEN,
THOMAS B. WINSTON,
JOHN TOWNSEND,
H. A. HARRISON,
A. J. ELLIS,
STEPHEN HARRIS,
WM. H. DAVIS,
~~J. H. MERRILL~~,
WM. M. STEWART,
B. SIMMONS,
S. BRANNAN,
R. M. PRICE.

Delegates for Convention.
DR. WM. M. GWIN,
JOSEPH HOBSON,
~~MYRON NORTON~~,
EDWARD GILBERT,
WM. M. STEUART.

Supernumeraries.
FRANCISCO SANCHEZ,
B. M. PRICE,
FRANCIS J. LIPPITT,
W. D. M. HOWARD,
A. J. ELLIS.

REPUBLICAN TICKET. REGULAR NOMINATIONS.

For Judge of the Superior Court.
PETER H. BURNETT.

For Prefect.
W. A. BUFFUM.

For Sub Prefects.
J. R. CURTIS,
FRANCISCO GUERRERO.

For First Alcalde.
J. W. GEARY.

For Second Alcaldes.
J. M. HUXLEY,
W. LANDERS.

For Ayuntamiento.
STEPHEN HARRIS,
T. J. AGNEW,
A. J. ELLIS,
W. C. PARKER,
F. D. KOHLER,
T. H. GREEN,
J. P. HAVEN,
M. L. MOTT,
M. G. LEONARD,
H. A. HARRISON,
E. G. POST,
T. W. PERKINS.

For the Convention.
E. GILBERT,
J. D. STEVENSON,
MYRON NORTON,
J. A. PATTERSON,
E. GOULD BUFFUM.

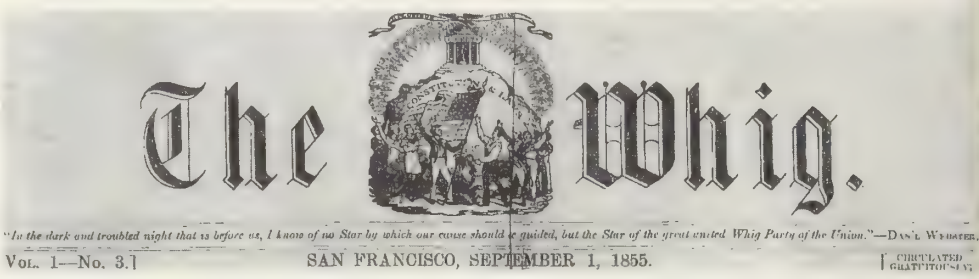
Supernumeraries.
W. M. SMITH,
J. B. BIDLEMAN,
W. HAIGHT.

People's Party (*left*) and Republican (*right*) tickets distributed in San Francisco in 1849. During the nineteenth century, workers outside polling places gave voters tickets featuring only the names of their party's candidates (although in several cases candidates were endorsed by both parties), forcing voters who wished to "split" their ticket to write in candidates from other parties (as shown here on the Republican ticket). Voting was conducted openly, in full view of campaign activists and other voters. Only in the 1890s did county and state governments begin providing secret voting booths and printing official ballots listing all candidates' names, reducing the power of political parties. *Courtesy Huntington Library.*

California's boundary. How much territory could California undertake to control? Some delegates wanted to include most of the unorganized former Mexican territory, namely parts of what now is Nevada, Arizona, and Utah. The convention was badly split on this issue, the irrepressible Mr. Botts sardonically commenting, "why not indirectly settle it by extending your limits to the Mississippi. Why not include the Island of Cuba." The winning reasoning in the end was that there was nothing on the other side of the Sierra Nevada of any value, and thus acquiring "interminable plains of artemesia, vast bodies of salt water a great part of the year, and immense deserts," as delegate J. R. Snyder put it, would only be a burden. The boundary question was interwoven with the consequential issue of whether slavery should be allowed in the state. A ban on slavery was quickly accepted, as some delegates were abolitionists and others simply did not want the unfair competition that owners with slaves might offer. There was more extensive debate about permitting "free Negroes" to enter and reside in the state, resolved in favor of such admission, and settling on a reasonable boundary for the state virtually eliminated any possibility that sections of the state might eventually be carved into slave territory.¹⁵

The constitutional outcome was an amalgamation of influences. It was the last time until the late twentieth century that a sizable number of Latino Californians had a significant role to play in state political events. Most Californios had experience, not always pleasant, in dealing with Americans. Employing skillful negotiation and argument, the Californios helped to guide the convention to adopt provisions on such matters as voter qualifications, taxation, lands, state boundaries, and civil liberties, in addition to property and language, that protected certain practices that existed under the former regime, although in later years the Californios found that constitutional intent was not easy to maintain. In a referendum predictably characterized by low turnout, the constitution was overwhelmingly ratified 12,061 to 811 on November 13, 1849. The final document was largely "in the main stream of American constitutional history in the several states. . . . [It] may not have been the best of its time, but neither was it the worst. It was representative of, neither in advance of nor behind, the thinking and political climate of its time."¹⁶ The 1849 constitution began with an extensive declaration of rights, emblematic of California's "adamant resistance to government restrictions on private personal conduct."¹⁷ This litany of rights is one that has expanded over the years, but from the outset it included "pursuing and obtaining safety and happiness." As one group of authors observed: "How characteristically Californian to guarantee not only the pursuit but the achievement of happiness!"¹⁸ Although superseded by the adoption of the 1879 constitution and by many amendments subsequent to that time, elements of the 1849 constitution, including the right to happiness, remain today.

One of the more peculiar and notable legacies of the original constitution relates to the state legislature. In 1849 the number of Assembly members was constitution-



The national Whig Party, powerful from the mid-1830s to the mid-1850s but united only in its opposition to Democrats, elected two presidents—William Henry Harrison in 1840 and Zachary Taylor in 1848. Though active in California politics, the state Whig Party never managed to elect a governor or senator, despite the exhortations of the party newspaper, *The Whig*. In the September 1, 1855 issue (masthead shown here), the editor of *The Whig* urged readers to “Vote the Whig ticket! Vote early! See that your tickets are correctly printed! Urge your friends to vote the true Whig ticket!” Shortly thereafter, the national Whig Party divided into northern and southern factions and then dissolved. *Courtesy City of Sacramento, History and Science Division, Sacramento Archives and Museum Collection Center, Eleanor McClatchy Collection.*

ally fixed in a range of thirty to eighty, with the number of senators being no more than half that number, and with the exact numbers to be determined by the legislature itself. At that time, one Assembly member represented fewer than four thousand people and, given that less than half of the adult population could vote, needed to reach only several hundred voters to be elected. The later 1879 constitution fixed the number permanently at the upper levels of 1849, namely, eighty assembly persons and forty senators, with each Assembly district representing about ten thousand people. Unchanged in maximum numbers since 1849, today each of California’s assembly persons now represents four hundred thousand people. And each state senator, serving double the number of constituents present in an Assembly district, represents substantially more people than does a U.S. member of Congress. In New York, the next closest state in population size, each assembly delegate represents 120,000 constituents, or about a quarter of a California district. (In the “mentor” state, Iowa, there is one representative for every twenty-seven thousand people.) The result is remoteness for the average voter from his or her representatives in Sacramento, contributing to the media orientation of California campaigns, the enormous amounts of money involved in winning political office, the excessive influence of political consultants, and the vast pressure of special interests. All of these consequences spring in part from the initial constitutional provisions fixing the size of the legislature.

After the constitution was ratified, it was immediately put into effect, with state officials and legislators being elected, although there was still no legal recognition from Congress. Vilified as the “Legislature of a Thousand Drinks,” California’s ini-

tial statecrafters have often received little respect for their work. Historian John Caughey labeled them "gold-mad westerners" characterized by "inexperience" and "inattention induced by the absorbing and highly profitable nature of private enterprise. In the conduct of state government the result of this crass neglect was a record of the grossest abuses." However, such a low opinion of the early legislators is not universal. William Henry Ellison claimed that "it is doubtful whether . . . any legislature has ever done more work . . . or more important or better work, than that done by the [first]. . . . The adaptation of the governmental structure of the state to changing conditions is a perennial tribute to the devotion and political wisdom of the builders in California's first legislative session." Studies such as that by Judson A. Grenier in his biography of the first state controller and in his essay in this volume can help to more judiciously evaluate the impact and character of these individuals.¹⁹

Whatever the quantity of alcohol consumed by the early statecrafters, it is important to recall that they were attacking governance in the midst of a wild and fluid situation, a political entity growing in population at breakneck speed with no infrastructure to support such growth and without financial resources, given the uncertainty of the government's legal status. In the middle of this maelstrom, the first legislature did organize some of the machinery of government and adopted the Anglo-American common law as the basis of law in California. The effects of its actions continue to be felt in the present. It provided for a local government structure, creating the majority of counties in the more populous north and thereby leaving contemporary California with many small county governments in the north, the tiniest being twelve-hundred-person Alpine County, and a few large counties in the south, such as nine-million-person Los Angeles County. It appointed pilots for ports and harbors, assembled the state archives and library, created a state printing operation, set up elections, provided for limited partnerships, organized the state militia, and tried to regulate steamboats, in part to stop the often fatal practice of racing them. It also failed to launch a public school system and could not settle on the location of a capital; Sacramento was finally chosen in 1854. The first legislature also imposed an odious and discriminatory tax on foreign miners in a blatant attempt to drive nonwhite miners from the gold fields. The first legislature had a mixed record. It operated to a degree within the norms of American state legislative activity, but it was also driven by other factors and elements as outlined by the essays in this volume.

Despite the positive or negative mythology that sometimes surrounds stories of the state's founding fathers of 1849-50 and the actions they took, by and large they rather predictably were a product of their era, values, prejudices, and economic circumstances. California's political reputation from its earliest days has been often that of "a land of loony schemes and political extremes, an image which has stuck and refuses to come unglued."²⁰ As debate raged in Congress over California statehood, the legendary South Carolina senator John C. Calhoun fumed about Cali-

ifornia's impatient actions to govern itself, prophetically charging California with being "revolutionary" and "anarchistic." Later, the feud between David Broderick and William Gwin and the impact of the Civil War overshadowed other elements of the state's political life, including the irregular development of the state's political parties, unsuccessful movements for state division, and the expanding application of state governmental procedures. As there is evidence that California's politics bore significant resemblance to that of other states, a reexamination of the negative political image that California has garnered since its early governmental period is in order. The essays in this volume also address that goal.

After the question of statehood was resolved and the initial state organizational efforts were completed, it was time to get on with business. California was finally admitted to the Union on September 9, 1850, thanks to a compromise between the free and slave states crafted by Henry Clay. Not surprisingly, economic affairs were predominant in much of the work of the next several legislatures. Gerald Nash, the only scholar to examine in depth the economic impact of the early state government, wrote that the practices that the founders brought with them served as the "institutional heritage with which California's first constitution makers and legislators were acquainted. On the foundations of English local legislation and mercantilist administrative practices Americans had fashioned an intricate institutional framework to which they adhered with remarkable consistency. The functions of government were to promote and regulate private enterprise, to engage in research where needed, and to undertake public ownership and operation under certain conditions. Techniques to carry out these functions had been developed over the course of two centuries, ranging from noncoercive methods to formal sanctions."²¹ However, up to this point little work has been done to examine the manner in which governmental functions were initially carried out in California. Adequate histories of governmental functions and agencies have been few in number, and much scholarship remains to be accomplished.

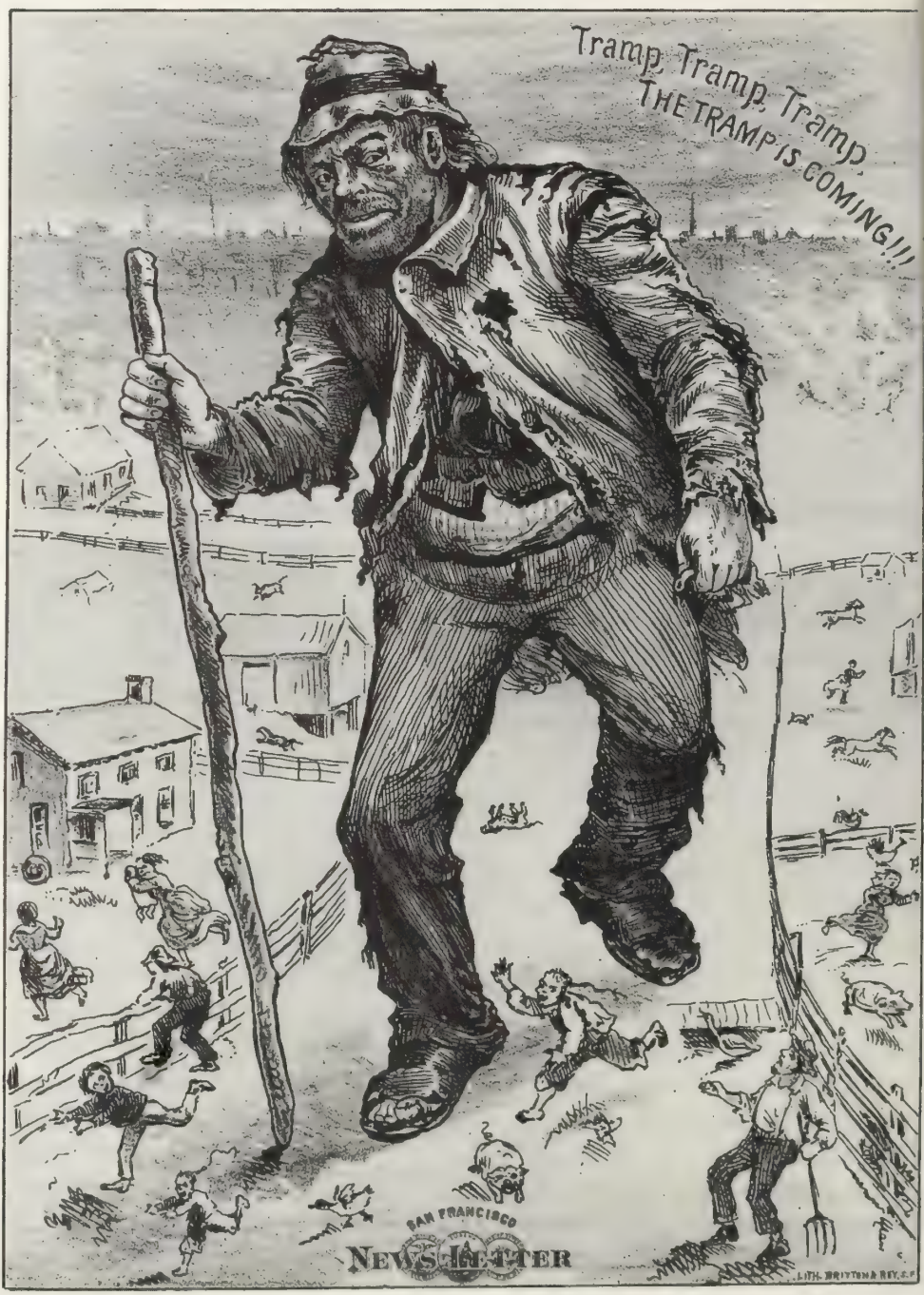
Thirty years later, the constitution of 1849 came under considerable attack, and an effort to replace it with a new one gained momentum, as the original constitution was held responsible for some of the adverse economic circumstances the state then confronted. In three decades the face of California had changed substantially. The population had grown eightfold, and its demographic characteristics had changed as well. The formerly Mexican population had declined substantially in proportion to people of European American origin, and Californio political impact had essentially disappeared. African Americans remained small in number and excluded from most political participation, and Native Americans, their populations much reduced by disease, violence, and dislocation, were struggling for sheer survival. The most substantial numerical minority was Asian, predominately Chinese, but they were politically prostrate and made scapegoats for many of the woes afflicting the state that had escalated as the state's economy moved beyond the Gold Rush. Historian Kevin Starr summa-

rized California's unhappy situation, observing, "from start to finish, north and south, the 1870s had been an unmitigated disaster of drought, crop failure, urban rioting, squatter wars, harassment and murder of the Chinese, cynical manipulation of politics by the railroad, depression, price fixing, bank failure, and stock swindles."²²

The constitution of 1849 had been considered for overhaul as early as the middle of the 1850s. Numerous attempts were made at calling a new constitutional convention, but they were unsuccessful until the election of September 5, 1877, by which time economic circumstances had deteriorated to the point that many in the Workingmen's Party and those sympathetic to it especially felt that substantial reform was in order. Primary issues included regulation of the railroads, changes in taxation to reduce the burden on farmers, more accountability on the part of corporations and banks, protection for labor, and anti-Chinese provisions. The duration of the convention that gathered in Sacramento beginning in September 1878 extended to six months, or four times as long as the first convention. Three times the number of delegates were in attendance, 152 compared to the forty-eight in Monterey. Of the delegates, fifty-seven were lawyers and thirty-nine were farmers, with the rest distributed among a wide range of occupations. All were Caucasian males, most born outside the state; as such they were representative only of those allowed to participate politically. One proposal that they turned down would have extended suffrage to women. An idea that they accepted eliminated the 1849 requirement to publish laws in both English and Spanish.

The results of the overall efforts of the 1878-79 delegates have not often been applauded. The unwieldy product that emerged was vastly different from the constitution of 1849. The new constitution was an extremely detailed document full of minor provisions on such topics as nut trees and wrestling that in many other states would have been deemed of statutory, not of constitutional, import. The document was many times longer than the Constitution of the United States or the original California constitution; at one point only the constitutions of the state of Louisiana and the nation of India were wordier. Moreover, the principal aims of the new constitution were not realized. The railroads continued to escape strong regulation until the Progressive era reforms of the early twentieth century. The degree of tax relief for farmers was disappointing, and the operations of neither banks nor other corporations were significantly altered. Workers found that the new constitution did little to protect their interests. The racist efforts to restrict and exclude the Chinese were not truly accomplished, as most of the specific provisions offered would have violated elements of the U.S. Constitution. Severe limitations on Chinese immigration were eventually instituted by the federal government, not the state, when Congress passed the Chinese Exclusion Act in 1882.

When the new constitution was submitted to the people for adoption, there was little enthusiasm for the convention's product, although the vote ultimately came down in favor of ratification largely because the farmers hoped that it would result



The product of a heterogeneous committee, the state constitution of 1879 managed to disappoint almost every California group. Conservatives condemned it as radical and socialistic; workers insisted it did too little for labor. This 1879 lithograph, titled *I Am the New Constitution!!!!* shows farmers and Chinese Americans fleeing from the constitutional behemoth. Courtesy Bancroft Library.



The Workingmen's Party of California, led by San Francisco drayman Denis Kearney, emerged as a major force in California politics in 1877 by decrying political corruption, the exploitation of workers, and Chinese immigration. In the pages of *The Wasp*, cartoonist Edward Keller offered his interpretation of a Workingmen Thanksgiving parade in 1877. *Courtesy California State Library.*

in much lower freight rates and taxes. The new constitution won acceptance on May 7, 1879, by a vote of 77,959 to 67,134, with more than 80 percent of the eligible electorate participating. The large northern California cities, where Workingmen's Party influence was strongest, turned the document down, while most rural counties and southern California voted for it. The greatest percentage of votes against it were in Alameda County. It received the largest favorable majority in Los Angeles County. Amended more than 350 times and substantially revised and shortened

through the efforts of a constitutional revision commission one hundred years later, the 1879 constitution remains the fundamental law of California. The most significant reform subsequent to the adoption of the 1879 document was "people's lawmaking" in the form of the initiative and referendum, enacted in the Progressive period. Widely used in the twentieth century, people's lawmaking may reflect the desire displayed in 1878-79 to constitutionally embed most elements of public policy and to circumvent what was seen as an ineffective legislative process.

Although the constitution has been amended more than three hundred times since the 1879 version was ratified, many facets of the 1879 document continue to directly affect contemporary California. For example, the University of California remains a separate constitutional agency as set up in 1879, exempt from most of the laws that apply to the rest of the government. The basic judicial system was reconstructed into its present form. Almost the same number and type of constitutional officers continue to be elected as specified in 1879, even though today several of the functions supervised by these constitutional officers could be handled by other constitutional officers or appointed officials, as is often seen in other states. Moreover, the policy discretion of these independently elected constitutional officers is severely limited by the wishes of the governor, who controls the budget process, personnel regulations, and decisions of executive agencies with overlapping authority. Accountability for a variety of constitutional functions is thereby blurred, but change in the system is difficult because substantive alterations require a constitutional amendment. As previously noted, the numerical composition of the legislature remains the same as in 1879, even though the state's population is now more than thirty times larger. Former Speaker of the Assembly Bob Monagan's assessment of badly needed change in California's system of representative government places expansion in the numbers of legislative representatives as one of the foremost reforms to repair major defects in the 1879-based governmental structure. Others he recommends include a new method for reapportionment, shorter legislative sessions, enforceable campaign finance reform, and a revised initiative process.²³

All of this strongly infers that greater study of the long-term impact of California's constitution-making endeavors would likely be quite fruitful, though such a comprehensive effort is beyond the scope of this volume. Particularly scant historical analysis has been undertaken in respect to the constitution of 1879 and its effects. Most general histories mention its development only in passing, or dismiss its impact. Rolle and Gaines, for instance, merely offered that "in spite of the constitution's many technical defects, California has developed a workable and efficient governmental system." A more elaborate analysis appears in *The Elusive Eden*, whose authors suggest that "whatever its shortcomings, the new constitution established important principles of state economic regulation, . . . distributed the tax burden more widely, . . . and created the machinery for increasing state revenues. The state now



Approximately sixteen thousand Californians served in the U.S. military during the Civil War, including a "California Battalion" that fought with the Second Massachusetts Cavalry in Virginia. Because of prohibitive transportation costs, most enlisted Californians were stationed in their home state, such as the men of Sacramento Company I, Second Regiment, who in 1863 posed for this photograph alongside "Union Boy," an artillery cannon they fired after each Union victory. *Courtesy City of Sacramento, History and Science Division, Sacramento Archives and Museum Collection Center, Eleanor McClatchy Collection.*

possessed a stronger legal and fiscal framework for dealing more actively with the economic, scientific, and environmental problems of modernization." David Alan Johnson's perceptive evaluation takes an even longer view: "The 1879 constitution of California was thus an effort to make sense of a modernizing corporate order. . . . the delegates, Workingmen and nonpartisan alike, were anticipating the regulatory state that would be established by Progressive reformers a generation hence. They intended to widen government's role as the guarantor of individual liberty, giving it the responsibility to limit and control, but also assist, the pursuit of private advantage."²⁴

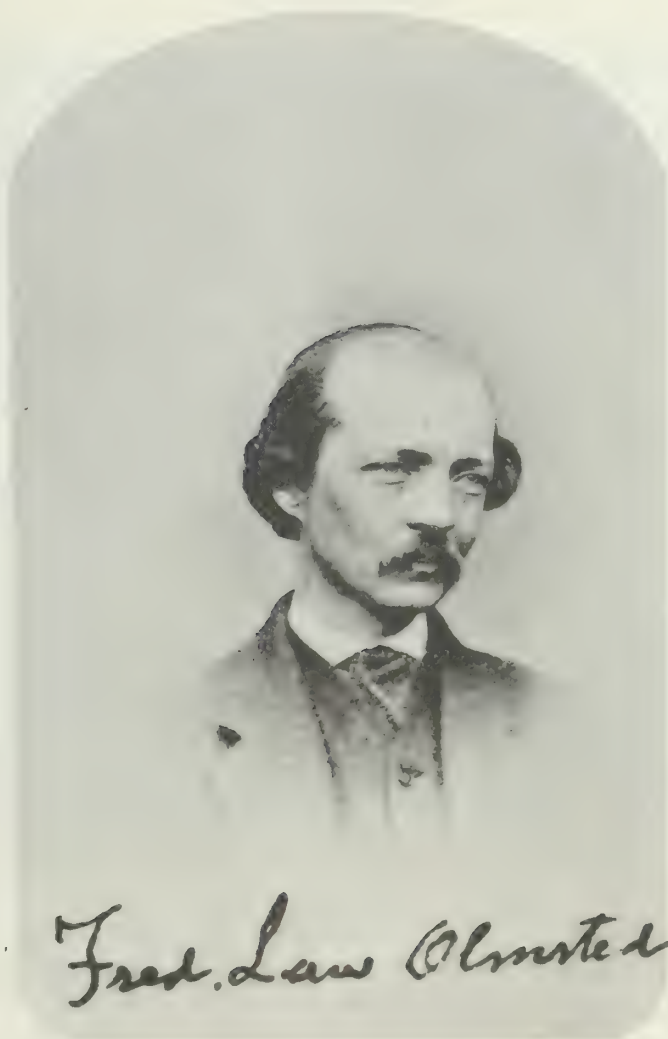
President Robert Semple, concluding his opening remarks to the first constitutional convention, predicted: "The knowledge, enterprise and genius of the old world will

reappear in the new, to guide it to its destined position among the nations of the earth. Let us, then, go onward and upward, and let our motto be, 'Justice, Industry and Economy.'"²⁵ If movement indeed was "onward and upward," it was to unfold in erratic fashion, as the articles in this volume indicate. But no matter how erratic what happened in California public life during the state's first thirty years was vital to the state's future, and it certainly invites greater study and comprehension to help understand public life in the present. The essays in this volume provide an initial step in that direction. Each discusses an important element of California's early affairs with an emphasis on looking anew at government's role.

Roger D. McGrath challenges several prevailing conceptions about crime, violence, and law enforcement in California's early governmental period. Novels and motion pictures have contributed to a heavily romanticized and often fictional picture of law and order on the frontier and about the characters who played a part in it. But McGrath shows, for instance, that Joaquín Murieta was just a brutal bandit from Mexico, not a Hispanic Robin Hood, and that he was prone to assault easy victims, including other Mexicans. Vigilantes, according to McGrath, "operated coolly and deliberately" and "left the community in a better state" as they focused their remedial attention on those who preyed on the innocent. McGrath found few damsels in distress on the California frontier. In fact, women were a "protected class" rarely the subject of criminal activity. He judges pioneer defense attorneys "highly competent," and also asserts that "it is difficult to cite an instance of an innocent man being hanged" by vigilantes. On numerous matters, including the first state prison system, early lawmen, and the effects of an armed citizenry "too dangerous to rob," McGrath reevaluates popular notions and explores new ground.

The essay by Gordon Morris Bakken logically succeeds that of McGrath, as it treats the development of the California courts and the legal system. Bakken examines the constitutional underpinnings of California's initial judicial efforts and finds that they reflected "the popular sovereignty and Jacksonian democratic rhetoric of the times." His history of the early bar and judicial action sheds considerable light on the practice of justice in the state's tumultuous early days, including its "dismal" record on matters related to racial equity. Especially useful is his elaboration on real estate law, tort law, mortgages, and mechanics liens, important subjects that rarely gain even a modicum of attention. While Bakken found that judges "clearly favored entrepreneurs and insulated them" from liability, he also found that the state Supreme Court "exhibited an independence that produced extraordinary decisions." His overall research concludes that there was substantial judicial activity in the constitutional era that was far from amateurish and that this activity contributed materially to California's maturation as a state.

Shirley Ann Wilson Moore's essay provides insight in respect to some of the important and troubling issues on racial prejudice and discrimination raised by Bakken.



Frederick Law Olmsted (photographed here ca. 1865), the father of landscape architecture, came to California in 1863 to manage John C. Frémont's Mariposa estate south of Yosemite Valley. Entranced by Yosemite, Olmsted helped convince President Lincoln to turn the valley over to the state of California in 1864, the first time the federal government set aside an area of land as a public park. Lacking any precedents or any other national parks, Congress, following custom at the time, entrusted administration of the preserve to California. Olmsted became the first chairman of the state's Yosemite Valley Commission and during his brief tenure labored to create a park that was protected while still "laid open to the use of the body of the people," a philosophy that would later guide the National Park Service. *California Historical Society, FN-26251.*

Unsympathetic to the popular premises of Manifest Destiny and focusing on the theme of law and race, she synthesizes the thirty-year period of California's early state experience, beginning with the state constitution that gave "legal sanction to discrimination" and the first legislative enactments against miners of color "erecting a bulwark of laws that deprived them of civil rights." She demonstrates that such laws were no accident of ignorance, nor did they have only casual impact. Moore traces the web of statutes that purposefully, blatantly served to keep nonwhite people in a subservient and disfranchised economic, educational, and political status, and reveals the reality of slavery in the sometimes not-so-free Golden State. Prominent among early laws were those that barred any judicial redress for Native Americans, Chinese, and African Americans, who were all prevented from even testifying in any action involving whites. Moore concludes by pointing out that, far from remaining silent, active responses were undertaken by some individuals and groups, especially African Americans, as they often successfully contested frontier California's legal strictures and began to challenge second-class citizenship.

A fascinating interlude is provided by Joshua Paddison in the essay that follows Moore's, as Paddison discusses some of the visual archival materials that vividly illustrate political and governmental activity and people associated with it. The color plates remind the reader of certain realities and conflicts associated with the emergence of Americanized government in California, and Paddison's text relates these and other images of early California to the eventual mythology of the state. Representations of such figures as Joaquín Murieta, Andrés Pico, and the Peralta family recall actual people displaced by and adapting to or taking advantage of forces of conquest, and a painting of Chinatown unveils a more benign portrayal of the Chinese than that prevailing throughout most of the nineteenth century. Elements of American-style governments, such as the post office, state capitol, and fire department, symbolize and cement the newcomers' presence, while views of the majesty of Yosemite, effects of hydraulic mining, and the island of Alcatraz in San Francisco Bay hint at contrasting approaches to governmental handling of the state's remarkable natural resources.

Topical treatments of California's governmental legacy resume with Judson A. Grenier's unique essay on early California officials. Grenier's research upends the conventional wisdom that denigrates early California officialdom with charges of ineptitude and graft. To the contrary, he argues that California was "fortunate that most of its officials were responsible men," whose service "often meant relinquishing a more lucrative career," and that their governmental conduct was "creative and generally responsible." The first legislature was the "most creative and probably the most competent," was noticeably less racist than subsequent legislatures, and proved so capable that some of their acts "endure to the present." Grenier asserts that the 1879 constitution in fact did little to alter the fundamental structure of officialdom



The members of the California State Geological Survey team posed for this photograph, titled *The Immortal Few*, in December 1863. From left to right are Chester Averill, William Gabb, William Ashburner, State Geologist Josiah D. Whitney, Charles F. Hoffman, Clarence King, and William H. Brewer. The state legislature created the team in April 1860 to "make an accurate and complete Geological Survey of the State, and to furnish . . . proper maps and diagrams thereof, with a full and scientific description of its rocks, fossils, soils, and minerals, and of its botanical and zoological productions." Though overwhelmed by California's immense size and hindered by a lack of funds, Whitney's survey furnished valuable maps and geological data and inspired similar civilian surveys in other states.

Courtesy California State Library.

imposed by the first constitution-builders and legislators. Especially valuable are his detailed descriptions of the offices, departments, and functions of the early government, and his capsule histories of the various gubernatorial administrations during the first thirty years of the state.

The preceding essays focus primarily on men in the creation of California as a state. Although prevented by law and custom from exercising overt political participation, women also played a role in the evolution of state law as they fought for



Map of California counties, from Mildred Brooke Hoover, Hero Eugene Rensch, and Ethel Grace Rensch, *Historic Spots in California* (Stanford: Stanford University Press, 1990). *California Historical Society*, FN-32395.

equal rights in an arena dominated by men. Donna C. Schuele's essay treats these developments in considerable depth and draws some surprising conclusions that impel a fresh look at female experiences in pioneer California. For example, one of the most celebrated provisions of the 1849 constitution was the one that provided defined marital property rights to women. Schuele demonstrates, however, that the

reality of application of this provision was far different from what the mythology holds, and that it "actually rendered California wives worse off than their eastern sisters." She also connects California's "subsistence frontier environment" with an increase in employment for white women, and that in turn spurred the development of women's literature, the suffrage movement, and the development of female leaders. She shows that early lawmakers were somewhat receptive in the end to demands for equal occupational treatment, and that a more positive response to job discrimination against women arrived in the 1879 constitution.

While these first six essays all emphasize developments in state law, government, and politics, the final two essays turn to the development of local government and the continuing presence of the federal government, respectively. Edward Leo Lyman discusses how local government was initiated "in an amazingly short time." He uncovers details about local government actions undertaken for a variety of functions, such as the improvement of roads and bridges so that rudimentary transportation arteries might be initialized and the establishment of county care for the "indigent ill" as a "precursor of the later welfare system." Lyman illustrates the difficulties confronting county officials in the north (El Dorado County) and the south (San Bernardino County), as well as in San Francisco and Sacramento, as samples of the struggles counties faced to provide schools, law enforcement, fire and flood protection, and other basic services. He finds that despite manifest problems, they "rather quickly laid the institutional and infrastructural foundation for local government," citing the work of both newcomers and Mexican Americans to provide local order.

The concluding essay, by Robert J. Chandler, examines the continuing and important federal role in the state's development, determining that while routine matters such as providing harbor defenses and building lighthouses were often handled successfully, the national government "failed in any actions that required speed," as in the timely resolution of land, mineral, and water issues. Chandler shows that federal involvement was vital in certain arenas; chief among them was the creation of California's transportation system, including the railroads. His investigation of the federal patronage system in California, especially in the Post Office and Treasury Department, is also revealing, as is his extensive discussion of military affairs during the Civil War and federal political effects on the state. As a fascinating bonus, interesting tidbits jump out of Chandler's broad research, such as the continuing efforts of the California legislature to receive recompense as promised by the federal government for the Civil War military services provided by the state, or the "ingenious" drug smuggling methods employed 140 years ago that are not unlike those the federal and state governments fight against today.

This exploration of the political and governmental side of the gold-rush years and California's constitutional era collectively gives the reader an intensive new look at

the formation and growth of the early state and suggests that there may be a great deal more depth to California's initial civic experiences than has been heretofore assumed. Moreover, much of the information offered implies that the mythology that has grown up around the politics and government of the state's first thirty years may be faulty or, at best, imprecise.

The essays in this volume range across numerous seldom-treated topics, with substantial, if sometimes merely tantalizing, results. Nineteenth-century constitution-building efforts and the statutes that soon followed were deliberative and complex, and they left strong residual effects. Frontier law and order, and the government's role in it, was evidently more measured and "orderly" than previously understood. The initial courts and justice system laid some important and thoughtful groundwork for the future, as did the struggles and successes of state, local, and federal jurisdictions and their unheralded officials, who brought considerable prior experience and organizational skill to bear in a unique frontier environment. At the same time, economic and governmental interplay favored certain groups, and flagrant racial discrimination flourished, materially aided and abetted by political actions. Both minorities and women fought to secure and maintain basic rights in the face of significant, intended institutional and legal barriers.

The story of political and governmental California in the state's constitutional and statehood period is connected to national issues, and to the ideals and misdeeds that accompanied them, with adaptation to the unparalleled and unprecedented governance situation that California presented. A recently conquered province with a diverse population, expanding exponentially in the midst of the phenomenal Gold Rush, had to quickly find a way to govern itself, and then almost as rapidly to modify its governing practices to reflect ever-changing economic and demographic imperatives. From the ambiguous mists of early state realities—adventure, profit, failure, boldness, tradition, creativity, compassion, and prejudice—the shape and substance of modern California emerged and remains today.

NOTES

1. J. S. Holliday, *Rush for Riches* (Berkeley: Oakland Museum of California and University of California Press, 1999), 201; Andrew F. Rolle, *California: A History* (New York: Thomas Y. Crowell, 1969), 330.
2. Edward Staniford, *The Pattern of California History* (San Francisco: Canfield Press, 1975), 161; Judson A. Grenier, *Golden Odyssey: John Stroud Houston, California's First Controller and the Origins of State Government* (Los Angeles: Historical Society of Southern California, 1999), 14.
3. William E. Leuchtenburg, "The Pertinence of Political History: Reflections on the Significance of the State in America," *Journal of American History* 73 (December 1986): 588–89. The existing literature on California's early political and governmental history is

sparse and, for the most part, dated. The best work on California's first constitutional convention, for example, remains Woodrow James Hansen, *The Search for Authority in California* (Oakland: Biobooks, 1960). Textbooks typically point to sources such as the following for further reading: Cardinal Goodwin, *The Establishment of State Government in California, 1846-1850* (New York, 1914); Joseph Ellison, *California and the Nation, 1850-1969* (Berkeley: University of California Press, 1927); James A. B. Scherer, *Thirty-First Star* (New York: G. P. Putnam's Sons, 1942); William Henry Ellison, *A Self-Governing Dominion: California, 1849-1860* (Berkeley: University of California Press, 1950); and Theodore Grivas, *Military Governments in California, 1846-1850* (Glendale, Calif.: The Arthur H. Clark Company, 1963). Little scholarship has appeared since the 1960s. Notable exceptions include Grenier, *Golden Odyssey*; David Alan Johnson, *Founding the Far West: California, Oregon, and Nevada, 1840-1890* (Berkeley: University of California Press, 1992); Shelley Bookspan, *A Germ of Goodness: The California State Prison System, 1851-1944* (Lincoln: University of Nebraska Press, 1991); and the material in this volume.

4. J. Ross Browne, *Report of the Debates in the Convention of California, on the Formation of the State Constitution, in September and October, 1849* (Washington, D.C.: J. T. Towers, 1850), 3.
5. Frank Marryat, *Mountains and Molehills* (New York: Harper and Brothers, 1855), 203-205.
6. David Lavender, *California: Land of New Beginnings* (Lincoln: University of Nebraska Press, 1972), 199.
7. Johnson, *Founding the Far West*, 27-28.
8. Martin Ridge, "Disorder, Crime, and Punishment in the California Gold Rush," *Montana: The Magazine of Western History* 49 (Autumn 1999): 27.
9. Johnson, *Founding the Far West*, 27.
10. Staniford, *Pattern of California History*, 155.
11. Edward H. Howes, "The World's Gateway to the Gold, 1848-1860s," in *Sacramento: Gold Rush Legacy, Metropolitan Destiny*, ed. John F. Burns (Carlsbad, Calif.: Heritage Media, 1999), 30.
12. Browne, *Debates*, 3.
13. *Ibid.*, 18.
14. *Ibid.*, 258-59.
15. *Ibid.*, 137-200 (the quotations are on pp. 178 and 182).
16. William J. Palmer and Paul P. Selvin, *The Development of Law in California* (St. Paul, Minn.: West Publishing Co., 1983), 24.
17. Charles P. Sohner and Mona Field, *California Government and Practices Today* (New York: HarperCollins, 1993), 13.
18. Bernard L. Hyink, Seyom Brown, and Ernest W. Thacker, *Politics and Government in California* (New York: Thomas Y. Crowell, 1967), 21.
19. John W. Caughey, *California: A Remarkable State's Life History* (Englewood Cliffs, N.J.: Prentice-Hall, 1970), 216; Ellison, *A Self-Governing Dominion*, 77; Grenier, *Golden Odyssey*.
20. Neal R. Peirce, *The Pacific States of America* (New York: W.W. Norton, 1972), 26.
21. Gerald D. Nash, *State Government and Economic Development: A History of Administrative Policies in California, 1849-1933* (Berkeley: University of California Press, 1964), 26.
22. Kevin Starr, *Americans and the California Dream, 1850-1915* (New York and Oxford: Oxford University Press, 1973), 132.

23. Robert T. Monagan, *The Disappearance of Representative Government* (Grass Valley, Calif.: Comstock Bonanza Press, 1990).

24. The most useful monograph on the 1879 constitutional convention remains Carl Brent Swisher, *Motivation and Political Technique in the California Constitutional Convention, 1878-79* (New York: Da Capo Press, 1969). Quoted here are Andrew F. Rolle and John S. Gaines, *The Golden State: A History of California* (Arlington Heights, Ill.: Harlan Davidson, 1979), 150; Richard B. Rice, William A. Bullough, and Richard J. Orsi, *The Elusive Eden: A New History of California* (New York: Alfred A. Knopf, 1988), 280; Johnson, *Founding the Far West*, 255.

25. Browne, *Debates*, 18.

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A Violent Birth

Disorder, Crime, and Law Enforcement, 1849–1890

Roger D. McGrath

On the winter morning of February 20, 1853, more than a hundred Chinese miners were working their claims near Rich Gulch. Without warning, five mounted and gun-brandishing bandidos swept down upon them. Taken by surprise and without arms themselves, the Chinese could do little but comply when ordered to hand over their gold. An American who happened to be in the Chinese camp refused and made a rush for the bandidos. He was joined by two Chinese. The bandidos opened fire, killing the three men instantly. Stray bullets wounded five others. The bandidos collected some \$10,000 worth of gold dust and nuggets and left as suddenly as they had come. Two days later the same gang of bandidos hit another Chinese camp with equally bloody, if less profitable, results. The robbers killed three Chinese, wounded five more, and got away with \$3,000 worth of gold.

Charlie Clarke, the leader of a small posse on the trail of the killers, described them as "five well dressed Mexicans, well armed and mounted on beautiful animals." Their leader was Joaquín Murieta. Probably the most mythologized figure in California history, Murieta has been portrayed as a social bandit who waged war against the hated gringos by robbing and killing them. In truth there was nothing social about his banditry. He robbed and killed those who had money, be they American, Chinese, or Mexican. He killed nearly as many Chinese as whites and robbed and murdered several of his fellow Mexicans. His cause was his own.

California's unsettled early years were certainly violent, with no one group having a monopoly on mayhem. Gangs of bandidos, using horses to great advantage, were especially conspicuous. The Murieta gang was only one of many, which is one reason Murieta's reputation grew to legendary proportions. Nearly every robbery committed by bandidos was attributed to Murieta. If robbed by a gang of Mexicans, was there anyone who did not want to attribute the crime to the notorious Joaquín

Murieta? A similar phenomenon occurred a generation later in Missouri and adjacent states. No bank teller would admit that the leader of the gang of robbers who cleaned out the vault was not Jesse James.

Violence was not confined to bandidos. Caucasian newcomers used both the legal system and individual and group violence to suppress the nonwhite population. Conflict between Indians and other groups was also a feature of the early years of California but was of such significance and different character that it requires a separate treatment.¹ However, violence did not have to cross racial and cultural lines. Fighting among young American white men was a common occurrence in the saloon. The watering hole could be in the booming city of San Francisco, at a way station, or in a mining camp. It hardly mattered. Tradition and the code of the frontier required that the American male stand and fight if challenged or insulted. If both men were armed, the fight often resulted in death. Stagecoach holdups became commonplace by the 1870s, but train robberies can be counted on the fingers of one hand. Women, so often the target of the criminal today, only rarely suffered from any kind of violence or lawlessness. In many ways they were a protected class. Prostitutes were an exception to this rule. Their victimization, though, most often took the form of an assault by another prostitute or by a drunken customer. Even for them, murder or rape was rare. When they died prematurely, it was usually the result of suicide or habitual use of alcohol and drugs.

Certain kinds of violence were looked upon with equanimity by gold-rush Californians. If two healthy young men chose to fight—with fists, knives, or guns—and the results proved deadly, few people became terribly upset. When stage robbers were courteous, left the passengers unmolested, and took only the contents of the treasure box, the general public hardly uttered a peep. However, if an innocent person were killed or robbed, the citizenry would be outraged and the response to the dastardly deed frequently came in the form of vigilantism. More often than not, vigilantes, unlike members of a lynch mob, operated coolly and deliberately, exercised good judgment, prosecuted and punished the guilty, and left the community in a better state for their operations. San Francisco experienced two episodes of vigilantism. One episode was enough for most mining camps.

During the gold-rush years a significant amount of the violence in the Mother Lode country, and in rural California in general, was the product of bandidos. Legend has it that the bandidos were old Californians displaced by the arrival of thousands of Yankees. Actually, many of the bandidos were recent arrivals from Mexico. They raced into California in the rush of '49 just like the Yankees and other Argonauts. The most notorious of the bandidos, Joaquín Murieta, was born in Mexico and did not arrive in California until 1849. Unfortunately, most of what people think they know about Murieta comes from a wildly fictional tale created by John Rollin Ridge. In 1854 the part-Cherokee Ridge published *The Life and Adventures*



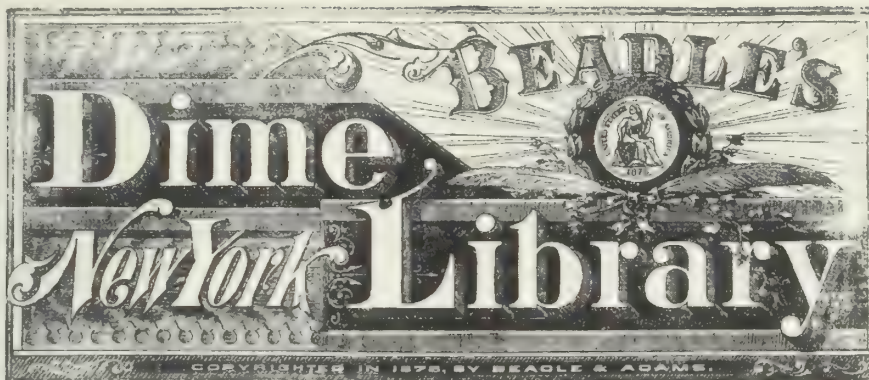
This portrait of Joaquín Murieta by Charles Christian Nahl appeared in the original edition of John Rollin Ridge's *The Life and Adventures of Joaquín Murieta, the Celebrated California Bandit*, published in San Francisco in 1854. Ridge, a part-Cherokee journalist who wrote under the name Yellow Bird, drew on local legends to create a martyred Mexican swashbuckler who struck back against American injustices in gold-rush California. Later writers, including Joaquin Miller, Pablo Neruda, and Isabel Allende, have likewise used Murieta for their own purposes. *California Historical Society, FN-244-A.*

of *Joaquin Murieta, the Celebrated California Bandit*. Ridge says that Americans drove Murieta from his claim, flogged him and raped his wife, and hanged his brother. Murieta then set out on a course of revenge, killing all those gringos responsible. The tale seems inspired more by the removal of the Cherokee and the conflict that occurred both within the Cherokee tribe and with the whites than by anything that Murieta experienced. (Ridge's paternal grandfather, Cherokee leader Major Ridge, and his father, John Ridge, were both killed during the conflict over removal.) Nonetheless, Ridge's fictional version of Murieta's life was accepted as fact and became a template for nearly all the bandidos.²

Stories about Murieta multiplied, and articles mixing fact and fiction appeared in newspapers and magazines for years. The romantic myth was more powerful than the awful truth. Walter Noble Burns took the myth to new heights with the publication of *The Robin Hood of El Dorado* in 1932. Although as long ago as 1949, Joseph Henry Jackson, in *Bad Company*, revealed the fictional nature of most of the literature on Murieta and demonstrated clearly that most authors relied heavily upon Ridge, the early 1970s saw a revival, especially by activist Chicano authors, of the myth of the wronged Californio becoming a social bandit.³

In reality, the man who inspired the fictional Joaquín Murieta of popular culture was not a Californio but a Mexican from Sonora. Most important, his wife was not raped by American miners, nor was his brother hanged. Moreover, it was Murieta's brother-in-law, Claudio Feliz, who first turned to crime when he stole a large nugget of gold. The theft had nothing to do with racial antagonism. He was panning with a party of American miners at the time and was said to be well liked by the Yankees. Feliz was put in jail for the theft but escaped almost immediately. Within a year he was leading a gang of bandidos, intent on enriching themselves, not on avenging wrongs. Some of those who rode with Feliz were Americans. Feliz led attacks on ranchos owned by Americans and those owned by Mexicans, killing and looting without compunction. The first rancho he raided was that owned by the famous "Dr." John Marsh, an American ranchero who had been in California since 1836. The third rancho Feliz attacked was that of an old Californio, Anastacio Chabolla. Feliz returned to the southern Mother Lode country for his next crime. With the help of his younger brother, Reyes, he robbed and murdered a fellow Mexican near Chinese Camp.⁴

Other crimes followed, and by the fall of 1851 Murieta had joined Feliz and his band. On November 10 they lassoed a man named Gallagher and his black servant, dragged them off their horses, and slit their throats. For the gang's bloody efforts they were rewarded with only two ounces of gold. They then robbed and killed an American teamster and two American travelers, and they shot Yuba County sheriff Robert "Buck" Buchanan in the back. The sheriff managed to recover, but a Mexican whom Feliz later shot did not. Feliz was actually jailed for the latter crime but soon



Vol. III. Complete In One Number. Beadle & Adams, Publishers, No. 99 WILLIAM STREET, NEW YORK. Price, Ten Cents. No. 38.

The Velvet Hand; or, The Iron Grip of Injun Dick.

BY ALBERT W. AIKEN.
AUTHOR OF "OVERLAND KIT," "ROCKY MOUNTAIN BOY,"
"KENTUCKY, THE SHORE," "INJUN DICK," ETC.

PROLOGUE.

NOT DEAD BUT SLEEPING.

Dark and gloomy were the clouds that hovered around great Shasta's snow-capped peak. The hour of midnight was near at hand, and the slow rising moon, struggling in the darkness, saw the black and cavernous lion's head, and the velvet hand.

On the western side of the peak, where one of the sides of the old crater had broken away, there was a large circular plateau about a hundred yards in diameter, a huge fire was burning.

By the fire, and feeding the flames, stood a tall, dark figure.

The copper-colored face, the massive features, as well as the forest-peakin garb of deer-skin which he wore plainly told that the man was native to the soil.

Far below in the valley twinkled the lights of the mining town of Cannabar, and in the main street of that young metropolis of the Shasta valley, a group of miners were gathered, eagerly trying, with the aid of a powerful glass, to discover the meaning of the unusual beacon blazing so brightly on the side of great Shasta's peak.

Some of the bank's heathen ceremonies, the world went around, as by the aid of the glass, the miners made out that the tall form standing by the burning pile was a savage chief.

Little did the men of Cannabar dream that the blazing beacon was to serve as a funeral pyre for the mortal remains of the long-bearded Cherokee, the Injun Dick of "Overland Kit," the untiring pursuer of "Rocky Mountain Boy," the Richard Talbot, superintendent of the Cannabar Mine, of "Kentucky," and the dreaded White Rider, the Death-Shot of Shasta, who made such fearful light for the

Cannabar lodge, as detailed in the pages of "Injun Dick."

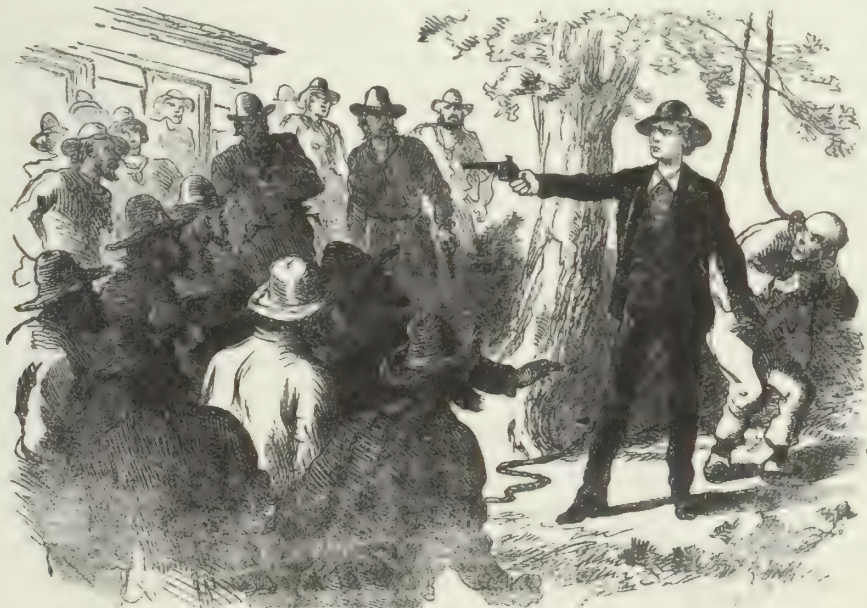
"Give my body to the flames on Shasta's side," the hero had muttered, after receiving the chance shot, his death wound, seemingly.

And Owasie (Mud turtle), the blackfoot chief who had traveled far from the home of his tribe, seeking the friend of his early days on the Indian California land, promised to respect the figureless.

Then the stricken man had swooned away, and the Indian, bending anxiously over the still form, believed that death's dark angel had set his fatal specter upon the brow of lion-hearted Talbot.

Noted as by the side of the body, with his head motioned in his blanket after the fashion of his people when mourning for the loved, and lost, the chief had remained until the morning hour was at hand, then, to the top of Shasta's peak he bore the precious form of the man who had been to him a brother.

The funeral pyre was kindled, and as the flames rose and sparkled high in the air, the Indian knelt by the side of the form, now so cold and still, a last farewell to take.



A SILVER-PLATED REVOLVER GLEISTENED IN VELVET HAND'S WHITE FINGERS, AND NOT A MAN CARED TO TEST HIM—ALL KNEW HIM.

Frontier California's reputation for violence and vigilantism persisted for decades after the Gold Rush, encouraged by writers who served up romantic stories to eager East Coast readers. This illustration adorned a cover of the New York periodical *Beadle's Dime Library* in 1878, accompanied by a breathless tale of violent retribution set in California called "The Velvet Hand; or, The Iron Grip of Injun Dick." *Courtesy City of Sacramento, History and Science Division, Sacramento Archives and Museum Collection Center, Eleanor McClatchy Collection.*

escaped. He and his compadres next made news at the mining camp of Humbug. There, the town constable, John Leary, saw Reyes Feliz wearing two stolen revolvers and took him into custody.

With Caleb Dorsey, a Harvard-educated lawyer, and two other Americans, Leary headed to Columbia to lodge his prisoner in jail. Lurking along the route, however, was the Feliz band. The bandidos opened fire from ambush, but Leary and his boys were equal to the occasion. They returned the fire with effect, killing one of the bandidos and badly wounding Claudio Feliz. In the confusion Reyes Feliz managed to escape. Claudio tried to do the same, but his wound slowed his progress up a hillside, and as Leary closed in, Claudio turned and emptied his revolver at the constable. Leary, his Irish temper getting the better of him, charged madly at Feliz. Somehow he managed to reach Feliz without one of the bandido's bullets striking him. He then put his own revolver to Feliz's head and cocked the hammer. Whether Leary would have fired is not known. Dorsey arrived on the scene and pushed Leary's gun barrel to the side.

Claudio Feliz was soon standing trial, not for all his murders and robberies, which were as yet unknown to Columbia authorities, but for attempting to "rescue a prisoner from a public officer, and shooting at said officer." Feliz retained none other than Caleb Dorsey to represent him, and the Harvard graduate convinced a jury, composed solely of non-Hispanic whites, to find Feliz not guilty. Contrary to the popular impression, justice was often neither swift nor certain on the frontier. Frequently, if a defendant, be he American, Mexican, or Chinese, retained a good attorney, that defendant was acquitted. The case of Claudio Feliz, the bandido from the Mexican state of Sonora, is but one of hundreds of examples.

While Feliz was being tried, leadership of the gang fell to Murieta. Through the early 1850s the new leader led the bandidos in outbursts of robbery and murder down the San Joaquin Valley, into southern California, and back to the Mother Lode. Murieta and his bandidos robbed and killed without compunction and without discrimination. Their killing of an otherwise common American farmer, Allen Ruddle, proved to be both their undoing and a catalyst for the creation of the California Rangers. Ruddle's family offered a large reward for the capture of the murderers. One of those attracted to the case by the reward was Harry Love. Love was a rough-hewn, six-foot-two veteran of the Mexican War. A native of Vermont, he had lived on the frontier for two decades by the time he arrived in California, at the age of forty-two, in December 1850. He was ornery, fearless, deadly, and always well armed. His personal sidearm was a .44 Colt Dragoon.

Early in June 1852 Murieta and his gang arrived in Los Angeles with Love and his partner hot on their trail. Love chased two gang members to Ventura, where, after a brief shoot-out, he had one of them, Pedro Gonzales, in custody. When they stopped at a creek near present-day Thousand Oaks, Gonzales broke for the brush. Love calmly drew his .44 and put a bullet through Gonzales's head.

Joaquín Murieta proved to be a wily foe, however, and his depredations continued. In January 1853, he began a two-month reign of terror. He and his gang members robbed Chinese miners at Yaqui Camp and murdered one of them. Only a few days later they robbed and killed two Chinese and two American miners not far from Yaqui Camp. A posse caught up with the bandidos, but after a running gun battle they escaped. Riding through Yaqui Camp they let bullets fly in all directions, killing an American. That night they killed two Americans at a quartz mill. This was more than enough for the local miners, and a vigilance committee was organized at San Andreas. A vigilante posse followed a trail of blood from the quartz mill and found a wounded Mexican hiding in a tent. Before he was hanged he admitted that Murieta was the leader of the group. At Cherokee Flat the vigilantes found another wounded bandido and shot to death his fleeing compadre. The wounded man was soon stretching hemp.

Murieta's bandidos next robbed and murdered two Chinese four miles outside of Angels Camp, then three Americans near French Camp. The vigilante posse managed to capture a scout for Murieta near Angels Camp. He was hanged. With Calaveras County up in arms, Murieta fled north to Amador County. During early February he and his bandidos robbed Chinese at four different camps, leaving one dead and two wounded. Then on February 13 the bandidos hit a Chinese camp on Jackson Creek. They murdered a Chinese miner and an American butcher. The Chinese raced into nearby Jackson and reported the attack. A hastily raised posse was quickly on Murieta's trail. The posse tracked the bandidos to a ravine, where they found Murieta and the others dismounted, readjusting their saddles and dividing their ill-gotten gains. The posse members let out a whoop and, firing their revolvers, swept down into the ravine. The bandidos mounted their horses and scattered, leaving behind stolen horses and sacks of gold.

Two days later the posse caught one of Murieta's bandidos and brought him into Jackson. The Chinese identified him as one of the gang. He admitted that he had participated in the raid but claimed that he had not committed the murders. The miners' court was unmoved and sentenced him to death. Escorted to a large oak tree in front of the Astor House, he was soon dangling from a prominent limb. He was the fifth victim of Jackson's "hanging tree."

Murieta now made his bloodiest raids to date, his aforementioned attacks on the two Chinese camps on February 20 and 22, 1853, leaving six dead and at least ten wounded. He then fled into Mariposa County and holed up near the Mexican camp of Hornitos. Two months of raiding, robbing, and murdering had made him notorious. Although several of his bandidos had been shot and killed or captured and hanged, he remained on the loose. Following him was difficult at best. Local posses did not like to stray far from home, and they did not have the resources to stay in the field for long. Moreover, few miners had horses to donate to the cause and even fewer had blooded stock that could run with the mounts stolen by the bandidos from

ranchos. As a result, in May, the state legislature created the California Rangers, a small force authorized to exist for three months and to hunt down evildoers statewide. Harry Love was appointed captain and put in command. He made Patrick Edward Connor, an Irish immigrant and captain of volunteers in the Mexican War (and later a brigadier general in the Civil War), first lieutenant and second in command. Some twenty men were enlisted as rangers, most of them war veterans and frontiersmen who had years of experience in tracking and fighting. Murieta's days were now numbered.

Love led his men through the Mother Lode country, then across the San Joaquin Valley to Mission San Jose. They were on the right trail. Murieta had a hideout nearby, in Niles Canyon. It was a member of his band, Jesus Feliz, though, who was first captured. Feliz, Murieta's brother-in-law, agreed to cooperate with Love. Feliz identified Murieta's favorite haunts in the Coast Range, in particular Cantua Creek. Packing three weeks' provisions, Love let leak misinformation about the destination of his rangers. On the hot afternoon of July 12 they set off in their stated direction. They made camp in the evening, but when darkness fell, they quietly broke camp and rode hard toward Cantua Creek. Often riding at night, switching directions, and breaking into smaller parties, they closed in on their prey. Finally, at 2 A.M. on the morning of July 25, they began to follow fresh tracks down Cantua Creek into the San Joaquin Valley. By the time they reached the valley, dawn was breaking. Three miles distant, smoke rose from a campfire.

The rangers approached within four hundred yards of the camp before being seen. The bandidos raced to gather their horses, but it was too late. With guns drawn, the rangers galloped up to the camp and froze the bandidos in their tracks. One of the bandidos, described as handsome with long hair and a fair complexion, stepped forward. Evidently thinking that he could convince the Americans that he and his compadres were simply innocent vaqueros hunting wild mustangs, the fair one said, "Talk to me. I am the leader of this band." A ranger who had known Murieta back in Sonora in 1850 shouted, "This is Joaquín, boys! We have got him at last!"

From under their serapes Murieta and his bandidos pulled revolvers and blazed away. The rangers followed suit. A bullet grazed Harry Love's head, neatly parting his hair. One of the bandidos was not so lucky. A bullet struck him in the head, and he fell dead. After firing a shot or two, Murieta raced for his horse, leaped onto the saddleless animal, and galloped down an embankment and into a creek. A ranger followed in hot pursuit. As Murieta tried to race his horse up the opposite bank, the ranger opened fire. The round broke the animal's leg and sent horse and rider crashing to the earth. Murieta took off running, but the ranger's accurate fire brought him down. The notorious bandido pleaded that the ranger shoot no more and then, in Spanish, said, "I'm dead." Within seconds he expired.



During the Gold Rush, massive immigration and competition over scarce resources exacerbated xenophobic violence against nonwhite groups. In July 1849, a band of American vigilantes descended on a tent community near San Francisco called Chiletown, murdering its Chilean residents and pillaging their makeshift homes. Chilean Argonaut Vicente Pérez Rosales later wrote that the vigilantes—disparagingly known as the Hounds—consisted of “vagrants, gamblers, or drunks, drawn together in a fellowship of crime; and they had as their motto, ‘We can get away with it.’ Fear and hatred spread in advance of their appearance. . . . Everywhere they went they established their control by quarrelsomeness and violence.” The *Annals of San Francisco*, published in 1855, included this depiction of the Hounds’ attack on Chiletown. *California Historical Society, FN-31984.*

Meanwhile, back at the camp, two more bandidos were killed in the gunfight and two others were captured. Several more, although wounded, managed to escape. Carrying the bodies of the dead bandidos back to Sacramento would have required a wagon. Instead, Love decided to decapitate Murieta’s corpse and return with the head to prove that he had gotten the right man. The grisly trophy brought Love a

\$1,000 reward, a princely sum in the 1850s. Bottled in alcohol, the head was made a touring exhibit in the Mother Lode country. The head was then put on display in a San Francisco gun shop, and later in a museum, before it was destroyed in the 1906 earthquake and fire.

The gang led first by Claudio Feliz and then by Joaquín Murieta was unusual only for its success. There were other Mexican gangs of a similar nature in the early years of American California, but none robbed and stole as frequently or killed as often.⁵ Murieta and the others fought for no cause but their own. They attacked targets of opportunity. If the victim was a ranchero from an old Californio family, a Mexican teamster, or a Sonoran miner, so be it. Those with gold and without firearms were especially vulnerable, as was often the case with the Chinese. For Mexican bandidos Chinese mining camps were rich environments. The Feliz-Murieta gang alone murdered more than a dozen Chinese, several whites, one black, and at least three Mexicans. The gang members simply preyed upon the weak, the outnumbered, or the unsuspecting.

If the bandidos were the scourge of rural California, then the Hounds were the scourge of the city.⁶ The Hounds were organized by San Francisco's merchants to provide a body of men who could capture and return runaway sailors. During the summer and fall of 1848, gold fever struck the sailors of nearly every ship that docked in San Francisco. Sailors, and occasionally their officers, jumped ship by the dozen and headed for the Mother Lode. By the end of 1848 the problem had grown so large that merchants had difficulty moving their goods. At first, the Hounds' income came solely from the merchants, but the group soon developed a protection racket. They were a tough bunch. Many of them had been members of the New York Volunteers, a regiment sent to California during the Mexican War. Others were beached sailors or Sydney Ducks from Britain's penal colony of Australia. Vicente Pérez Rosales, a gold seeker from Chile, recorded in his diary, "There is a gang of ruffians in this city called the Hounds. They are young, vicious, and shameless, and seem to have sworn a mutual pact to protect one another's lives and interests. They start fights in the cafes all the time, and if anyone rises to the provocations of these united ruffians he is beaten up."⁷

That Rosales was a Chilean and not a Mexican should not come as a surprise. The Chileans were the first Latin Americans to arrive in California in large numbers. Word of the gold strike reached Valparaíso during August 1848 and thousands of Chileans, many of them experienced miners, boarded ships for a relatively easy voyage to California. Although most of the Chileans headed for the diggings, a tent city called Chiletown developed on Telegraph Hill. For a while the Hounds victimized with impunity the Chileans who lived there. Any Chilean who refused to pay the

Hounds was pummeled and his tent destroyed. In June 1849 one of the Hounds got in a row with a Chilean merchant. The merchant pulled out a revolver and fired. The round struck and killed not the Hound, but another man, who happened to be in the Hound's company.

A month passed before the Hounds retaliated. When they did, they provoked the larger citizenry to act against them. After a day of drinking and revelry, twenty of them stumbled into Chiletown and wreaked havoc, destroying tents, beating men, and looting goods. When one Chilean resisted, Sam Roberts, the leader of the rampaging Hounds, fired a couple of rounds at the man as he fled into his tent. The bullets tore through the canvas and struck two boys huddled inside, leaving one dead and the other wounded. The drunken rampage was finally too much for the merchants of San Francisco, who realized too late that their sailor-catchers had become a gang of thugs. Sam Brannan, the town's leading merchant, held a general meeting the morning after the ransacking of Chiletown. Hundreds attended. Money was collected for the Chilean victims of the Hounds, and a militia of 230 men was organized. By the end of the day the citizen force had the twenty offending Hounds in custody. Nine of them were found guilty of various charges, including murder. Now that they were convicted, nobody seemed to know what to do with them. There was talk of hanging, but that seemed too severe for most of the miscreants, especially because the Hounds had been organized and supported by the town's leading citizens. Exacerbating the problem was a lack of any facilities for long-term incarceration. Finally, it was decided that the territorial governor should determine the punishment. The governor sentenced Sam Roberts to ten years "in some penitentiary." The others received lesser sentences. Eventually, the sentences of the Hounds were changed to banishment from California under the pain of death should they return. A few of them ultimately escaped even banishment.

As in San Francisco, conflict between Americans and Chileans also occurred in the Mother Lode, with similar citizen reaction. Americans generally felt that foreigners had no right to American gold. Chileans, Mexicans, and Chinese were often driven from claims. Responding to the prevailing American sentiment, the state legislature enacted a foreign miners' tax in 1850.⁸ By then much blood had already been spilled. The worst episode occurred near Mokelumne Hill in 1849.⁹ A hundred Chilean peons, indentured to wealthy Chilean masters and under the supervision of ten Chilean overseers, were mining an area that came to be called Chili Gulch. At the southern end of the gulch, two miles distant, was a camp of American miners called Iowa Cabins. The Americans resented the Chileans not only as foreigners, but also as an organized party of indentured workers. It was difficult for an individual and independent American to compete with a large company of men. The Americans could stake only one claim, while the Chilean group could stake more than a

hundred, even though any particular peon was not about to operate independently. Hostilities by the Americans grew into the "Chilean War."

In December 1849, the Americans of the mining district that included Chili Gulch held a general meeting at Double Springs and issued an order expelling all foreigners from the area. When the Chileans failed to comply, the alcalde from Double Springs, Lewis Collier, led a body of Americans into the gulch and took the Chilean camp by surprise. They bound the Chilean overseers with rope and then looted the camp of food, gear, and gold. Collier evidently thought that this action would send the Chileans packing. However, the leaders of the Chileans made a forty-mile trek to Stockton and got the alcalde there to issue an arrest warrant for Collier and his men. The Chileans hiked back into the hills and handed the arrest warrant to John Scollan, another alcalde and the proprietor of a trading post on the South Fork of the Calaveras River. Scollan reluctantly agreed to ride over to Double Springs and present the warrant to Collier. Once there, Scollan read the warrant to Collier and a group of assembled men. They nearly killed him on the spot. Collier declared that Scollan should be hanged for a traitorous alliance with the Chileans and said, "The people are sovereign in the United States, and we are the people; and as such we have elected our own government or judge, and we recognize only his authority."

Scollan returned to his trading post and announced to the Chileans that he had done all he could do. Some of the Chileans lost heart and left the diggings for San Francisco. Armed with guns, knives, and clubs, about sixty others descended on Iowa Cabins during the night and took several of the Americans there by surprise. When the Chileans charged into one of the cabins, however, they found a half-dozen Americans awake and playing cards. A brief exchange of gunfire erupted when two of the Americans drew their revolvers and fired a few rounds before they were overwhelmed. The shoot-out left one American dead and another dying of his wounds. The Chileans had one man killed and one wounded.

The next morning the Chileans took the Americans they had captured in the raid—thirteen in all—to Alcalde Scollan. Having taken Collier's threat of hanging to heart, Scollan wanted nothing to do with them. He told the Chileans they had committed a criminal act and that they must release their prisoners at once. Disregarding Scollan, the Chileans headed for Stockton, hoping that the alcalde there would look more favorably upon their actions. Meanwhile, as word of the killings at Iowa Cabins had spread through the local mining district, several groups of armed Americans set out in search of the Chileans. Joining forces and forming one body of men as they picked up the trail, the Americans numbered nearly a hundred by the time they caught up with the Chileans a dozen miles short of Stockton. Already having suffered some desertions, the Chileans decided it would be suicidal to resist and surrendered without firing a shot.

Now the tables were turned once again. The captive Americans were freed and

the Chileans were marched, as prisoners, to Mokelumne Hill for a mining-camp trial. The trial lasted several days before verdicts were announced. Three of the Chileans were found guilty of murder and were sentenced to death; five were sentenced to fifty lashes and head shavings; and three were sentenced to thirty lashes and ear croppings.¹⁰ Thus ended the "Chilean War."

Dueling also reflected the violent character of many Californians and eventually brought action from the state. The Argonauts came to California to strike it rich—a purely materialistic goal. Yet they often sacrificed their lives or at least their well-being for a highly developed sense of honor. Honor could not be bought; it had to be earned. An insult or a challenge meant a fight. There was no duty to retreat. A man stood his ground and fought—with fists, knives, or guns. The polished gentlemen preferred a formal duel. During the 1850s more duels were fought in California than in any other place in America, including the South. By 1854 the practice had become so common that the state legislature made dueling a criminal offense. The new law, however, was ignored by much of the honor-bound public. The legislator himself who drafted the bill later shot a man to death in an affair of honor. If a man killed his adversary in a duel, he was generally arrested and tried. However, practicing nullification, juries invariably found the accused not guilty.¹¹

Newspaper editors, lawyers, judges, politicians, and other men of position, power, and wealth duelled. William Walker, a San Francisco newspaper editor, who later became famous for his filibustering in Nicaragua, fought two duels in a year's time and was badly wounded in both affairs. The two men who wounded Walker both fought several more duels. Newspaper editors, an outspoken bunch in frontier California, often accepted challenges from politicians and other newspaper editors. John Nugent, the editor of the *San Francisco Herald*, engaged in three duels—the first when he challenged Edward Gilbert, the editor of the *Alta California* who was also California's first U.S. representative, and the second and third when San Francisco aldermen John Cotter and Thomas Hayes, on separate occasions, challenged Nugent over comments in his editorials. In the first duel, Gilbert, on the field of honor, offered to retract his offending statement. Cotter and Hayes, however, were more determined foes. The aldermen, in their separate duels with Nugent, each left the newspaper editor badly wounded. Dueling pistols were not always used. The Colt Navy was the weapon of choice in the Cotter duel, the rifle in the Hayes affair.¹²

Dueling with revolvers, rifles, and even shotguns was not unusual in California. Dueling pistols of very small caliber were common in Europe; they satisfied honor but rarely killed. In California, men evidently felt that honor was best satisfied by killing one's adversary. In several duels, the weapons were shotguns loaded with buckshot. Under such conditions men were almost always killed or horribly wounded. Occasionally, European practices did prevail in California. There is an instance of

two Frenchmen meeting on the field of honor and dueling with swords. After one was badly wounded, their seconds tried in vain to convince them to stop. The fight continued until the wounded man suddenly found an opening and drove his sword deep into his opponent's chest, dramatically ending the duel. By the next morning the man who had suffered the chest wound was dead.¹³

Dueling enhanced one's reputation in the West. *Alta California* editor Edward Gilbert, who had faced *Herald* editor John Nugent, got himself into another duel only a few months later.¹⁴ This one had disastrous results for Gilbert. He took a bullet in the stomach and died within minutes. The man who shot him, James W. Denver, a lawyer and Mexican War veteran, went on to an illustrious political career, first as California's secretary of state, then as one of the state's U.S. representatives, and later as the governor of Kansas Territory. The city of Denver, then a part of Kansas Territory, was named in his honor. During the Civil War he served the Union as a general. When following the war he was proposed as a Democratic candidate for president, his 1852 duel with Gilbert became an issue. Out West his affair of honor was simply a part of the frontier culture, but back East the Democratic establishment considered his killing of Gilbert a dangerous liability.¹⁵

Of California's many duels, the affair of honor between David Broderick and David Terry is the most celebrated. Broderick was a Democrat and a U.S. senator. Terry was a Democrat and the chief justice of the state Supreme Court. Their similarity ended, however, with party affiliation and high political office. Broderick, the son of Irish immigrants to New York, was strongly antislavery. Terry, a southerner from Texas, was strongly proslavery. They got into a political squabble in 1859 that led to Terry's challenging Broderick to a duel. Broderick had already fought one duel and was known to be a crack shot. With a redoubtable reputation himself, Terry had been a Texas Ranger and had fought with distinction in the Mexican War. He also had used a bowie knife to nearly stab to death a member of the San Francisco Committee of Vigilance in 1856.¹⁶

When Broderick and Terry met at the appointed time and place, San Francisco police chief Martin J. Burke was there to arrest them. However, a judge ruled that since they had not yet commenced dueling when arrested, there were no grounds for prosecution and they were released. By the next morning they had arrived at a new dueling site. Terry won the coin toss—his dueling pistols would be the ones used. They were set with hair triggers. Terry had practiced with them, Broderick had not. The call to fire was given. Broderick's gun went off prematurely, and the ball dug harmlessly into the ground between the two men. A split second later Terry's well-aimed shot drilled Broderick in the chest. He struggled on for three days and died.

The duel was big news, and authorities could not ignore the affair. San Francisco police duly arrested Terry, and prosecutors filed charges. However, Terry got a change of venue to Marin County, and a friendly judge dismissed the case. Terry practiced

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This sensationalistic depiction of David S. Terry's stabbing of Sterling A. Hopkins in San Francisco captures the violence that often lurked behind politics in frontier California. Terry, a justice of the state Supreme Court, opposed the Committee of Vigilance that attempted to control San Francisco in 1856; during a scuffle on June 21, he stabbed committee policeman Hopkins with a bowie knife. Three years later, Terry shot and killed political rival David C. Broderick in a famous duel. *California Historical Society, FN-05655.*

law in California for another thirty years, his southern sympathies, hot temper, and high-profile cases keeping him in the public eye. His end came in 1889 when U.S. Supreme Court justice Stephen J. Field, acting as chief justice of the federal Tenth Circuit Court, rendered a decision that left Terry furious. Terry swore vengeance. On a train en route from Los Angeles to San Francisco, Terry happened to stumble upon Field, who was eating breakfast in a dining car. Evidently oblivious to Field's U.S.-appointed bodyguard, Terry struck the chief justice in the face. Reacting immediately, the bodyguard drew a concealed gun and shot Terry twice. The onetime chief justice dropped to the floor of the car, dead.

Many California men did not bother with *code duello*; they just fought. "I'll die before I'll run" was a common sentiment. And die they did. Since most men were armed with a revolver and a knife, disputes could quickly turn deadly. The most popular sidearm during the first years of the Gold Rush was the .44 caliber Colt Dragoon. Then in 1851, the .36 caliber Colt Navy was introduced. Much lighter, better balanced, and more accurate than the Dragoon, it quickly became the favorite of those interested in serious gunfighting. Sam Clemens, who arrived in the mining

country a decade later, carried a Colt Navy. He later remarked that he had had no intention of killing anybody with the Navy but had "worn the thing in deference to popular sentiment, and in order that I might not, by its absence, be offensively conspicuous, and a subject of remark."¹⁷

Some might suspect that Clemens, later famous as Mark Twain, was perhaps engaging in a little western hyperbole. Not so. Hundreds of miners in letters, diaries, and articles described the well-armed state of the citizenry. Stephen J. Field, the chief justice later attacked by David Terry, was elected to the state legislature in 1851. "It was the common practice of those days to go armed," said Field. "Of the thirty-six members of which the Assembly then consisted, over two-thirds never made their appearance without having knives or pistols upon their persons, and frequently both. It was a thing of every-day occurrence for a member, when he entered the House, before taking his seat, to take his pistols and lay them in the drawer of his desk. He did it with as little concern and as much a matter of course, as he took off his hat and hung it up. Nor did such a thing excite surprise or comment."¹⁸

Several California gunfighters became legendary figures during the 1850s. Sam Brown was one. Standing more than six feet tall, weighing a muscular two hundred pounds, and wearing shoulder-length red hair, the Alabama-born Brown was a sight to behold. He had already killed a man in Texas before joining the Gold Rush. In the Mother Lode country he spent most of his time gambling. In a card game at the mining camp of Agua Fria in 1850 he got into a quarrel with a Texan over a hand. The two went for their guns, and "Longhair Sam" drilled the man in the head for his first kill in California. He got his second in 1853 and his third in 1854. According to legend it was Sam Brown who coined the phrase "I want a man for supper." He did not get in trouble with the law until 1855, when he and a friend got into a fight with a group of Chileans. The two Americans stabbed two of the Chileans to death and wounded a third. With more Chileans joining the fray, the Americans took to their horses. Several of the Chileans pursued, but Brown put a stop to that when he killed one of them with a well-placed shot.¹⁹

It would seem to have been another case of self-defense—the Chileans had started the fight, and they outnumbered the Americans. Nonetheless, Brown was arrested and tried. The jury evidently thought that the fearsome Brown needed to be reined in, and they convicted him of manslaughter. He subsequently served two years in San Quentin. His release from prison coincided with Peter O'Riley and Patrick McLaughlin's great strike, the Comstock Lode. Brown hurried across the Sierra and renewed his gambling and gun-and-bowie-knife fighting. He killed three more men there before he himself was blown to eternity by a load of buckshot.

Equaling Brown in kills was John Daly. Born in New York to Irish immigrants, Daly came to California as a teenager in the 1850s. The *Aurora Times* later described him as "rather fine looking" and commented that "nature had done enough for him

to have entitled him a position of respectability." Daly found his respectability among the gambling and gunfighting set. He enjoyed cards, fine whiskey, and fast women. He rarely spent a night without all three. Unlike many others of the era, he never let himself become inebriated and was always in a condition to engage in the deadliest of all contests, the gunfight. He wielded a Colt Navy with astonishing speed and accuracy. He killed his first man in Sacramento and then added others during trips to the mining camps of the Fraser River country, in British Columbia, and Virginia City, Nevada.²⁰

Operating out of Sacramento, Daly became one of California's first "hired guns." Often one mining company's claim would conflict with another's. Instead of an immediate gun battle, which occasionally occurred when the claims were being contested by individuals, the companies would go to court. Large mining companies had the lawyers, the time, and the money for such legal battles. A threat of violence was often employed as well. Gunfighters with fearsome reputations were hired, and paid handsomely, to intimidate witnesses and mining company executives.

The beginning of the end for John Daly came when he was hired by the Pond mining company in Aurora, a mining town of more than five thousand people situated high in the Wassuk Range on the California-Nevada border. The Pond was waging a legal battle with the Real Del Monte mining company over conflicting claims on Last Chance Hill. Daly was well paid because he was effective. Threatened by Daly, a witness for the Real Del Monte sold his interests in mines on Last Chance Hill and departed for the East Coast. The president of Real Del Monte hired a bodyguard and carefully calculated his every move about town, as did the chief company attorney.

In January 1864, when a second trial ended in a hung jury after both companies had spent the equivalent of millions in today's dollars, the Pond and Del Monte settled their differences out of court. Although Daly's services were now no longer needed, he decided to settle one last personal grudge before returning to Sacramento. William Johnson, the operator of a way station near Aurora, had been indirectly responsible for the killing of one of Daly's gang members. Daly decided to square things. He shot and killed an inebriated Johnson as the station operator emerged from a saloon. Aurorans were outraged. Gunfighters killing gunfighters was one thing, but this time an innocent man had been shot down. A vigilance committee was organized almost immediately, and within days the vigilantes had most of the Daly gang in custody. After waiting for a coroner's jury to determine responsibility for Johnson's demise, the vigilantes erected a special gallows and, with great pomp and circumstance, hanged Daly and three of his gang members.

Like John Daly, the Irish-born Billy Mulligan was an enforcer. It would seem that he took on an unlikely role. He stood only five feet, seven inches, and never weighed much more than 140 pounds. However, he had learned to box in New York City and

became a noted prizefighter. He was quick, had a powerful punch, and was seemingly indestructible. Tammany Hall made him a ward heeler. He spent much of his time in saloons and gambling dens and occasionally ran afoul of the law. When finally thrown in jail, he escaped, fled to New Orleans, and promptly joined the Louisiana Mounted Volunteers. He fought in several battles and skirmishes during the Mexican War and then headed for California.²¹

Mulligan killed his first man in California in a saloon fight at the mining camp of Sonora during February 1851. During the next year Mulligan fought not only another saloon brawl but also a formal duel. He suffered bullet wounds in each of the fights but rapidly recovered. In San Francisco, Mulligan found many of his old Tammany Hall friends intent on building a political machine similar to the one they had left behind in New York City. Foremost among them was David Broderick, a rising political star. Mulligan was one of the precinct officers who made certain that Democrats turned out and that they voted for Broderick. Broderick rewarded Mulligan by making him tax collector for San Francisco County. Mulligan served faithfully and honestly in that position for two years, but it did not stop him from brawling, once even decking James "Yankee" Sullivan, the former bare-knuckle champion. Mulligan was still an enforcer.

In 1855 Mulligan was made a deputy sheriff and put in charge of the county jail. He discharged his duties at the jail faithfully but was arrested by the San Francisco Committee of Vigilance in May 1856 after helping rig an election in San Mateo County. Mulligan was held in custody for a month and then put on a ship bound for New York. Once back in New York he rejoined Tammany Hall, but a shooting scrape with police in 1860 landed him in prison. By 1863 he was out of prison and back in San Francisco. The next year he fought a duel in Austin, Nevada. Mulligan's end was characteristically violent. Evidently suffering from delirium tremens, he imagined vigilantes were pursuing him and got into a wild gun battle. He killed two men before he himself was shot to death by police.

Be they newspaper editors such as William Walker, John Nugent, and Edward Gilbert, or politicians such as David Broderick and David Terry, or gunmen and enforcers such as Sam Brown, John Daly, and Billy Mulligan, many Californians were fighters. They fought when drunk and when sober. They fought in the middle of the day and in the wee hours of the morning. They fought in formal duels and in wild brawls. They fought unarmed and they fought with knives and guns. Because they were honor-bound and brave to a fault, they fought.

The fighting men of California were willing combatants, but they rarely attacked the innocent. When they did, the citizenry reacted with outrage. Committees of vigilance were often immediately organized following an egregious transgression. They were organized even though institutions of law enforcement and justice had been estab-

lished in frontier California, because many people believed that those institutions could not be relied upon to arrest, convict, and punish the guilty. For many reasons, arrest was not assured in the wide-open West. Local authorities rarely pursued anyone far from town or beyond the county line. The expense of a long-range pursuit was prohibitive. Once someone had eluded the town marshal or the county sheriff, he was usually gone for good. If captured, all was not lost for the alleged evildoer. Then, as now, a criminal defendant enjoyed the presumption of innocence. It was the job of the prosecutor to prove not only that the defendant was guilty, but guilty beyond a reasonable doubt. Moreover, the prosecutor had to convince all twelve jurors; one dissenter and a mistrial was declared. Because people moved about regularly in frontier California, and the West in general, witnesses to a crime were often long gone by the time a trial was held. Defense attorneys were usually highly competent and, seemingly, they regularly outperformed prosecutors. For all of these reasons, convictions were not easy to obtain. It appeared not to disturb most citizens if a gunman were found not guilty in the shooting death of another gunman, but the citizenry became outraged if the killer of an innocent victim walked free.

To preclude such an outcome, vigilance committees were organized. In California this occurred on more than forty occasions, from such mining camps as Columbia, Grass Valley, Jackson, and Bodie, to such cities as San Francisco, Sacramento, Los Angeles, and Monterey. The committees stated unequivocally, in a phrase that was used repeatedly, that "self-preservation is the first law of nature."²² The vigilance committees were commonly led by the most prominent residents of a town or a region and enjoyed widespread support. A grand jury report on the vigilance committee of Aurora, notable for hanging John Daly and his accomplices, said that the committee was "composed of over six hundred of our best, most substantial and law-abiding citizens."²³ The names of individual vigilantes who participated in various movements in the West suggested that Aurora's committee of vigilance was typical. William T. Coleman, a wealthy merchant and importer, was president of San Francisco's 1856 vigilance committee. Another member of the committee was Leland Stanford, a successful merchant who would become one of the "Big Four" of railroad fame as well as a governor of California and a U.S. senator.

Typically, vigilantes formed an executive committee and adopted a constitution. They had a chain of command and were often organized into companies and squads. Although impassioned and violent, vigilantes were usually highly disciplined, orderly, and deliberate. This was not accidental. Many of them had military experience, and some were combat veterans, having served in the Mexican War, the Civil War, or one or more of the Indian wars. Officially constituted authorities, realizing that they would have to oppose hundreds of well-organized and well-armed vigilantes, rarely attempted to interfere with such extralegal activities. Moreover, vigilantes generally represented the will of the majority of citizens in any particular community.



Following the murders of U.S. marshal William H. Richardson and journalist James King of William in 1856, San Francisco civic leaders formed a Committee of Vigilance to punish the killers and reform the city government. During its three-month reign, the committee hanged four accused murderers and exiled thirty accused criminals. After a grand parade, captured in this daguerreotype, the committee disbanded, only to regain its power—democratically this time—in elections a few months later as the fiscally conservative People's Party. *Courtesy Collection of The New-York Historical Society.*

The actions of vigilantes should not be confused with those of a lynch mob. Vigilance committees usually gave those suspected of wrongdoing a form of hearing or trial, and not all tried were found guilty and executed. Of the ninety men taken into custody by the San Francisco vigilance committee of 1851, forty-one were exonerated and released, fifteen were remanded to the custody of the regular authorities, one was whipped, and twenty-eight were banished. Only four were executed. Likewise for the San Francisco vigilance committee of 1856, which arrested dozens of men but executed only four. Although a popular theme in motion pictures and novels, it is difficult to cite an instance of an innocent man being hanged at the direction of a vigilance committee.

Although innocent men do not seem to have been hanged by committees of vig-

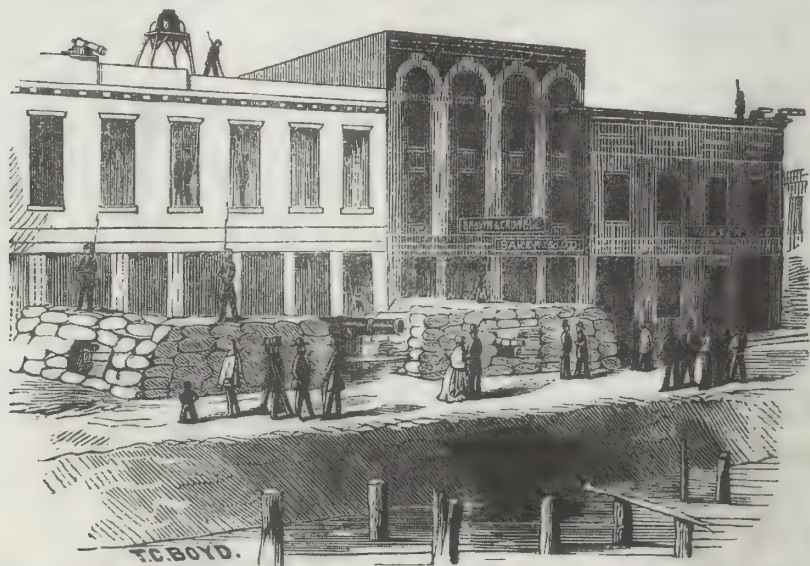
dance, vigilantes may occasionally have had ulterior motives for their actions. While most historians have accepted the Committee of Vigilance of 1851 in San Francisco as having been formed solely as a response to rampant crime, Kevin J. Mullen has argued that the vigilantes wanted, first and foremost, an overhaul of the criminal justice system.²⁴ He demonstrates that while crime did increase prior to the formation of the committee, the vigilantes inflated the number of offenses to further their own ends. Their ends were not nefarious, however, but much needed reforms for a city that had grown from a tiny hamlet in 1848 to a booming metropolis in 1850. The city's established institutions were no longer able to deal effectively with either the numbers of people or the new social fabric. The Committee of Vigilance of 1856 in San Francisco has come under much greater criticism, both by contemporaries and by historians, and has been a topic of debate since its formation. Dominated by Protestants and Masons who supported the American or "Know Nothing" Party, the committee may have been at least partly motivated by a fear of growing Irish Catholic political and economic power in the city. Several historians of San Francisco vigilantism, including Richard Maxwell Brown and Robert M. Senkewicz, think so. On the other hand, nineteenth-century historians John S. Hittell and Hubert Howe Bancroft were effusive in their praise of the vigilantes, arguing that the committee was solely a response to crime and corruption in San Francisco.²⁵

The Committee of Vigilance of 1856 was organized following two sensational fatal shootings, that of General William Richardson by gambler Charles Cora and that of James King of William, crusading editor of the *Daily Evening Bulletin*, by politician James P. Casey. The chain of events that led to the shootings began in November 1855 at the opening of the American Theater. General Richardson, serving as a U.S. marshal at the time, and his wife were among those in the audience. Sitting in a box directly behind the general were Cora and his mistress, Arabella Ryan, better known as Belle Cora, the wealthy madam of a notorious brothel. Richardson's wife and several other women complained to the management about the presence of the harlot at the theater. For a time it looked as if something more serious might erupt, but the theater management was able to pacify the various parties and the evening's performance went off as planned.

Two nights later, Richardson, with several drinks in him and still upset about the affair at the theater, found Cora at the Blue Wing, a saloon regularly patronized by San Francisco's politicians. Richardson asked Cora to step outside to discuss matters. After some preliminary banter the discussion turned heated. Suddenly, Cora drew a derringer and shot Richardson. The general collapsed, mortally wounded. Cora claimed that Richardson was about to draw his own derringer, that the general had had his hand in his pocket resting on his own gun. Police were on the scene immediately and arrested Cora. At the *Bulletin*, James King of William practiced a sort of journalistic vigilantism. "If the jury which tries Cora is packed," editorialized King,

SACRAMENTO THEATER.

FIRST NIGHT OF THE GRAND MOVING PANORAMA! OF THE INCIDENTS OF THE LATE



VIGILANCE COMMITTEE!

The Committee of Vigilance that controlled San Francisco for three months in 1856 inspired the moving panorama *Vigilance Committee!* shown in Sacramento in November of that year. Eighteen tableaux painted on ten thousand square feet of canvas were unrolled and passed before viewers' eyes, probably accompanied by music and narration. Scenes in *Vigilance Committee!* included "The Shooting of James King of William," "The Execution of Casey and Cora," and "The Stabbing of Hopkins by Judge Terry." A precursor to films, moving panoramas traveled from community to community in the mid-nineteenth century; unfortunately, fewer than twenty survive today. *Courtesy City of Sacramento, History and Science Division, Sacramento Archives and Museum Collection Center, Eleanor McClatchy Collection.*

'either *hang the sheriff* or drive him out of town and make him resign. If Billy Mulligan lets his friend Cora escape, *hang Billy Mulligan* or drive him into banishment." When Cora's trial ended in a hung jury in January 1856, King exclaimed: "Rejoice ye gamblers and harlots! rejoice with exceeding gladness! Assemble in your dens of infamy tonight and let the costly wine flow freely, and let the welkin ring with your shouts of joy!"

While Cora was in jail awaiting a second trial, another controversy arose. King fired a broadside at James Casey, who had won a seat on the county board of supervisors in an election widely denounced as corrupt. It may have been. Casey was a part of David Broderick's political machine, and he had a background in ballot-box stuffing for Tammany Hall. He was a rough character who could fight with his fists or with guns. At one point he had served time in New York's Sing Sing prison. In San Francisco he was involved in a bloody brawl at a political meeting in 1854. In California an attack on a man's current activities was one thing, and it might bring a challenge to duel, but dredging up a man's past was considered unseemly and might bring a violent response. On the afternoon of May 14 the *Bulletin* containing King's attack appeared on the streets of San Francisco. Minutes later Casey stormed into the newspaper's office and confronted King. Somehow King and others managed to convince Casey to leave the premises. However, an hour later, Casey found King on the street and shot him to death. Casey was quickly arrested and lodged in jail.

That evening, former members of the 1851 vigilance committee revived the organization and elected William Tell Coleman president. Most downtown merchants immediately joined the committee, which hastily set about collecting arms and forming a military unit. Unlike 1851, there was important opposition this time. The *Herald*, San Francisco's largest newspaper in 1856, opposed the formation of the new committee, as did San Francisco mayor James Van Ness, San Francisco county sheriff David Scannell, General William Tecumseh Sherman, who commanded the San Francisco district of the California militia, and future senator David Broderick, who led the formation of the "Law and Order" group of citizens. Their opposition had little effect. On May 16, some twenty-five hundred vigilantes descended on the lockup and took control of the killers. Legally constituted authorities, facing a virtual army, made no effort to resist. Cora and Casey were each afforded a trial before a vigilante tribunal. They were both found guilty and sentenced to death. On May 22, amid great public ceremony, the two men were hanged.

The Law and Order group now hoped that the vigilance committee, having hanged the killers, would disband. Instead the committee took more men into custody and fortified its headquarters building, nicknamed Fort Gunnybags. The committee even arrested Supreme Court justice David Terry after Terry had fought with and stabbed a vigilante. Terry was tried and convicted for the assault by the vigilante



Sarah Althea Hill, photographed here ca. 1880, stood at the center of two of the most sensational legal cases in late-nineteenth-century California. In 1883 she sued the estate of her lover, former U.S. senator William Sharon, for financial support, claiming that the two had been legally wed. During the trial, Hill married her attorney, David S. Terry, famous for killing U.S. senator David Broderick in a duel in 1859. Hill lost her case. A few years later she and Terry accidentally met the trial judge during a train stop near Stockton. History repeated itself when David Terry threatened the judge, whose bodyguard shot and killed Terry. The subsequent trial of the bodyguard, a U.S. marshal named David Neagle, eventually reached the U.S. Supreme Court, which exonerated him in a groundbreaking decision that expanded the powers of the federal government. Hill spent the last forty-five years of her life in a state asylum. *Courtesy Bancroft Library.*

tribunal but was released after a bitter debate among the vigilante leaders. The vigilantes went on to hang two other killers and to banish thirty miscreants for various crimes. They finally disbanded on August 18 following a great parade of six thousand armed men.

The editor of the *San Francisco Herald*, John Nugent, and later California historian Josiah Royce, called the work of the vigilantes in 1856 a "Business Man's Revolution." In the elections of November 1856 the leaders of the vigilantes, organized as the People's Party, drew up a slate of candidates that swept every city office. Under the new party, the cost of city and county government in San Francisco was dramatically reduced for a time. The People's Party remained in power for more than a decade.

While murder sometimes brought a death penalty at the hands of vigilantes, lesser crimes usually got the culprit sentenced to jail. Incarceration was costly, however, and fell to county officials, who soon began pressuring the state to build a prison for those sentenced to terms of more than six months. In 1851 the state legislature created a private system of incarceration. Prisoners would be leased to a private contractor who agreed to feed, clothe, and house them in return for using them as convict labor. The first lease, for a ten-year period, was awarded to James Madison Estell, a Democratic politician who would shortly become a state senator, and his partner, Mariano Guadalupe Vallejo, the wealthy ranchero of Sonoma Valley. Late in 1851 Vallejo left the partnership, and Estell became the sole lessee.²⁶

Estell quartered his first prisoners, some three dozen, on the brig *Waban*, moored off Angel Island in San Francisco Bay. He put them to work during the day in a rock quarry on the island. Within a year he had more than a hundred prisoners crammed aboard the *Waban*. Living conditions for the prisoners had been poor; now they were miserable. Escapes were frequent. Residents of surrounding areas complained; Estell himself complained. He reminded state legislators that when he had signed the lease, they had promised him they would build a prison. Responding to both citizen complaints and Estell's pleas, the state legislature appointed three commissioners to search for an appropriate prison site. The commissioners thought that any of the islands in San Francisco Bay would be ideal but found that the titles to the islands were clouded. As a result, they settled on Point San Quentin, on the Marin County mainland, and purchased twenty acres there.

Two attempts were necessary before the prison could actually be built. The original plans for a costly, capacious prison with separate quarters for women were scrapped after it was revealed that the contractor who had won the bid had done so by bribing state legislators. A much smaller, less elaborate, and less costly structure, nicknamed "the Stones," was erected by none other than James Estell, the lessee. The two-story structure had forty-eight cells on the upper floor in two rows back-to-



Prisoners enter the gate of San Quentin State Prison sometime in the late nineteenth century. Founded in Marin County in 1852, San Quentin was a privately operated penal institution until joining the state prison system in 1860. California's oldest and largest prison, San Quentin houses all of the state's death row inmates. *Courtesy Bancroft Library.*

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back. The cells were designed to hold two men each, but within a year they were crammed with four.

Overcrowding again led to problems, including escapes. Particularly upset by the escapes were Marin County residents. The Marin County grand jury demanded an annulment of Estell's contract. Escaping was not that difficult, especially for trustee prisoners. Estell granted a number of privileges to trustees, many of whom were housed outside the prison walls. With little or no supervision, trustees ran errands and performed special jobs for Estell. A few even worked as servants in Estell's San Francisco home. Several were allowed to work as laborers in San Rafael. Some simply walked away from the prison and never returned. Thomas McFarland Foley was one of them. Estell thought that Foley should never have been imprisoned for killing John H. Dunn, the editor of the *Pacific Police Gazette*. Estell considered Foley an upstanding and respectable gentleman who would soon receive a pardon from the governor. Two weeks after Foley arrived at the prison, Estell issued him a gun and allowed him to serve as a guard. He performed admirably in the role until he grew tired of waiting for his pardon and left for parts unknown. Ever the gentleman, Foley left behind a note thanking Estell for a \$500 loan and promising that he would repay it in full. Sure enough, \$500 was found missing from the prison safe.

As a result of the escapes and other problems at the prison, including drinking and guards having sex with female inmates, the state decided to buy out Estell's lease and take control. Estell was not averse to the idea. He was troubled by the many escapes and was not making the profit he had expected. When the state met his price, he relinquished control gladly. The state legislature then created a three-man board of prison directors. One of the directors would serve as president of the board, one as warden of the prison, and one as clerk. The director with the most ironic name became the first warden—John Love. Tough love it was. A large wall was erected around the Stones, and guards were issued orders to shoot to kill any prisoner attempting to escape or incite a riot.

The directors succeeded in reducing the number of prison escapes by two-thirds but found costs escalating dramatically. A year later, the operation of the prison was returned to Estell. However, Estell was soon accused of involvement in the killing of James King of William, the editor of San Francisco's *Daily Evening Bulletin* who had been shot to death by James Casey. The *Bulletin* subsequently launched other attacks against Estell for his poor operation of the prison. The board of prison directors tried to find a lessee to replace him, but there were no takers. Finally, in 1857, the directors agreed to allow Estell to sublease the last four years of his contract to two businessmen, Lloyd Tevis and John F. McCauley.

Under the new management, conditions at the prison worsened. A report to the state legislature in 1858 said that an inspecting committee found the prisoners ill fed and poorly clothed and living in filthy, overcrowded conditions. Moreover, the report

said that first-time teenage offenders were quartered with hardened middle-aged convicts, making reformation of the youths impossible. The state took action quickly, claiming that by failing to provide properly for the prisoners, Tevis and McCauley had violated their contract. In March 1858 the state took control of the prison for a second time. Several reforms were instituted, including the segregation of prisoners according to their age and crimes. Sanitation was greatly improved and construction of new facilities was begun. By the end of May, journalists from Bay Area newspapers were reporting that conditions at the prison were much better.

Meanwhile, Tevis and McCauley sued the state for the unilateral and unlawful revocation of their lease and temporarily regained control of the prison during 1859. In July 1860 the state Supreme Court ruled in the plaintiffs' favor and awarded them \$275,000, although operation of the prison was returned to the state. The state continued a policy of reform: limiting convict labor outside prison walls; clothing all prisoners in uniforms; housing women in newly constructed quarters instead of in guards' houses; and building additional cell blocks, a hospital, a church, and a library.

Despite the improvements, San Quentin, as the prison came to be called, was not a model of humane incarceration. Punishments for unruly prisoners included floggings with leather straps, beatings with rubber truncheons, hoseings of naked prisoners with high-pressure jets of water, and stretchings by tying a prisoner's arms behind his back and lifting him onto a hook, where he would remain suspended until he passed out. Moreover, teenage offenders were still sent to San Quentin, where they faced homosexual rape. Not until 1877 were the boys and men strictly segregated. In 1880 floggings and beatings were prohibited; the water torture and stretchings ended in 1882. Punishment from then on usually consisted of a diet restricted to bread and water and solitary confinement in a dark cell. One prison physician believed such confinement to be worse than the beatings.

During the 1850s and 1860s very few men were confined in San Quentin for murder. Convicted murderers, as a rule, were executed, either by vigilantes or legally constituted authorities, and never reached the state prison. Most of those incarcerated at San Quentin had been convicted of grand larceny. Assault with intent to kill, burglary, and manslaughter were a very far distant second-, third-, and fourth-ranked causes of imprisonment.

Frontier California was certainly wild and woolly, and men fought and killed each other at extraordinarily high rates. For example, Nevada County, in the Mother Lode country, and the mining town of Bodie, on the eastern side of the Sierra, had homicide rates many times higher than the rates for contemporary eastern counties or cities. On the other hand, rates of robbery, theft, and burglary in frontier California were not greatly, if at all, higher than those found in the East and were substantially lower than those found in the United States today.²⁷

Bodie might be considered representative of California's mining camps. In its heyday in the late 1870s and early 1880s it boasted a population of more than five thousand. It was alive twenty-four hours a day, sported dozens of saloons, brothels, and gambling dens, and produced gold and silver bullion worth hundreds of millions in today's dollars. Its economy was boom and bust, as new veins were discovered and old ones pinched out. Its population was transient, half were foreign-born, and men outnumbered women ten to one. The people were adventurous, enterprising, brave, young, unmarried, intemperate, and armed. A few had struck it rich, but most had not. The ingredients were there, it would seem, for a crime epidemic. Nothing of the sort occurred.

Only rarely was a resident of Bodie robbed. During its boom years, a five-year stretch from 1878 through 1882, only ten individuals were robbed, an average of only two people falling victim to a robbery per year. The stagecoach was robbed more often, suffering eleven holdups. When highwaymen stopped the stage, they nearly always took only the express box and left the passengers untouched. Passengers frequently remarked that they had been treated with the utmost courtesy by the road agents. Only twice were passengers robbed. In the first instance the highwaymen later apologized for their conduct, and in the second the holdup artists were drunk. Highwaymen understood that they could take the express box without arousing the citizenry, but if they insulted or robbed passengers they would precipitate a vigilante reaction.

In Bodie, if passengers were not the targets of highwaymen, neither were stagecoaches carrying large bullion shipments. With shipments worth millions in today's dollars, they would seem inviting targets. Yet not one stage with such a shipment was ever attacked. Unlike the regular stages, the bullion coaches were guarded by two, and occasionally three or four, rifle- and shotgun-wielding marksmen. Road agents preferred to prey on the unguarded coaches, taking whatever was in the express box, and escaping with their health intact. Only once did highwaymen and guards exchange gunfire, and on that occasion the road agents had not expected to encounter any guards. The miscalculation cost one of the highwaymen his life. For similar reasons neither of the two banks that operated in Bodie ever experienced a robbery. Bankers went about armed, as did their employees, and robbers evidently had no desire to tangle with armed men.

Robberies of individual citizens followed a clear pattern: the victim had spent the evening in a gambling den, saloon, or brothel; he had revealed in some manner that he had a goodly sum of money on his person; and he was drunk, staggering home late at night when the attack occurred. More robberies might have occurred had not Bodieites gone about armed and ready to defend themselves. Unless thoroughly inebriated, they were simply too dangerous to rob. The attempted robbery of miner C. F. Reid is but one example. When a robber told Reid to throw up his hands, Reid

said "All right" and began raising them. As he did so, he suddenly drew a foot-long bowie knife and drove the steel blade into the robber's shoulder. The robber recoiled in pain and took off running "like a deer." Reid gave chase but soon lost sight of the inspired runner. Reid felt satisfied, though, commenting later that he "cut the man to the bone."

Such actions were applauded by the populace and the local newspapers. Unlike a stage holdup, the robbery of an individual citizen was considered dastardly and provoked talk of vigilantism. "This business of garroting," as the *Bodie Standard* termed mugging and robbery, "is getting a little too common. The parties engaged in it may wake up one of these fine mornings and find themselves hanging to the top of a liberty pole." The *Daily Free Press* later called for the formation of a committee of vigilance, saying that one or two examples of vigilante justice were usually "sufficient to purify" a mining camp.

Despite such talk, Bodie actually suffered rarely from robbery. A statistical comparison of the rowdy mining camp with modern American cities demonstrates that today's cities, such as Detroit, New York, and Miami, have twenty times as much robbery per capita. The United States as a whole averages three times as much robbery per capita as did Bodie. A comparison of robbery in Bodie directly with robbery in eastern towns during the nineteenth century suggests that Bodie had rates below those in major cities such as New York and Philadelphia and comparable to those found in Boston. Burglary and theft were also infrequent in Bodie. Most American cities today average thirty or forty times as much burglary and theft per capita as Bodie. The national rate today is ten times higher. Eastern cities in the nineteenth century had rates several times higher. Again, an obvious factor in discouraging burglary and theft was the armed homeowner and armed merchant.

Women, often the target of criminals today, suffered only rarely from violence in Bodie. Prostitutes bore the brunt of the little violence that did occur. Most incidents involved a drunken brothel patron slapping or punching one of the women. Even in such assaults, women often evened the odds by grabbing a gun. One prostitute frightened off an attacker with a shot from her revolver, which sent the man running for his life. Another prostitute chased a customer out of a brothel and emptied her revolver at him. His "hair stood on end," reported the *Bodie Standard*, "as he expected any second to be reduced to a state of perfect inutility." Prostitutes were not the only women in Bodie to use guns in the defense of person or property. When a dispute arose between a man and a woman over the ownership of a city lot, the woman, believing herself the rightful owner, ordered the man off the property. However, as the *Bodie Standard* noted, since "he was a large man and she was a small lady, he concluded to tarry yet a while." It proved to be a very short while. The small lady pulled out a six-shooter, took dead aim at the man, and again ordered him to leave. Now, with an inspired sense of urgency, he did just that.

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Lith by Smith & Gursel Jackson 3' x 4'

Small Lawyer: — Old boss, I want a cowhide
 Down Easter: — Who are you a going to whip?
 Small Lawyer: — Heddlor of the tramp?
 Down Easter: — Then you'd better have a slung shot and a pair of pistols & 150 the lot and send him at that

(Price on letter sheet 25 cents)
 (single leaf one cent)
 Published every Sunday

This letter sheet from the early 1850s satirized the lawlessness of gold-rush California as well as the relentlessness of its entrepreneurs, who in this case hawked "every description of flagellator at reasonable cost." *Courtesy California State Library.*

There were no reported cases of rape in Bodie. Nonetheless, rape might have occurred but gone unreported, as even today victims are sometimes reluctant to report an attack. However, Bodie reported two cases of attempted rape, a possible indication that had rape occurred it would have been reported. Moreover, there is no evidence of any sort that rape occurred that escaped the attention of the authorities. Absolutely no suggestion of it surfaces in any letters, diaries, newspapers, or public records from the period. A large body of evidence indicates that Bodie women—excluding prostitutes—experienced almost no crime of any sort and were treated with the utmost respect. Women enjoyed an elevated status in frontier California, and the Old West in general, partly because of nineteenth-century Victorian morality and partly because they were a rarity on the frontier, especially in mining camps. In Bodie, men were fined and jailed merely for swearing in the presence of women.

Anyone insulting a woman—again, excluding prostitutes—risked being shot. As a former resident of Bodie recalled, “One of the remarkable things about Bodie, in fact, one of the striking features of all mining camps in the West, was the respect shown even by the worst characters to the decent women. . . . I do not recall ever hearing of a respectable woman or girl in any manner insulted or even accosted by the hundreds of dissolute characters that were everywhere. In part, this was due to the respect that depravity pays to decency; in part, to the knowledge that sudden death would follow any other course.” Woman after woman described the respect she was shown on the frontier. One of the most famous was Nellie Cashman, an Irish immigrant who came to California following the Civil War and spent time in nearly every mining camp from Mexico to Alaska in a career that spanned sixty years. Shortly before she died, a reporter asked her if she had ever feared for her virtue while trekking from one strike to another and living in nearly all-male mining camps. “Bless your soul, no!” replied Nellie. “I never have had a word said to me out of the way. The ‘boys’ would sure see to it that anyone who ever offered to insult me could never be able to repeat the offense.”

With armed citizens populating the mining camps, when men did fight, their confrontations, because they were armed, were often more deadly. During Bodie’s five-year heyday there were thirty-one homicides. That gave Bodie a homicide rate dramatically higher than rates found in the East during the same years and double or triple the rates for most U.S. cities today. Nonetheless, from the late 1980s through the mid-1990s certain sections of some cities and a few cities themselves approached Bodie’s high homicide rate, such as Los Angeles, Compton (directly south of L.A.), Detroit, Washington, D.C., New Orleans, and East St. Louis.

There are substantial differences in the homicides between then and now, however. In Bodie nearly all of those killed were willing combatants. Some were professional gunmen, but most were miners, teamsters, bartenders, carpenters, gamblers, and the like. They were usually young and single, and always brave. They scrupu-

lously observed a code of conduct that put honor above physical well-being. These ingredients, often laced with alcohol, led to fights over who was the better man, real or imagined insults, and challenges to the pecking order in the saloon. When a willing combatant was killed in a gunfight, Bodieites considered it justifiable homicide—two men had chosen to fight, and if one died, so be it.

Minorities were not a particular target of violence in Bodie. There were very few of them to begin with, and the violence they suffered was mostly from others in their own racial group. Chinese were the only substantial nonwhite portion of the population. This was true throughout California during the second half of the nineteenth century. Census data reveals that Bodie was about 92 percent white. Chinese accounted for about 6.5 percent of the population. Blacks constituted only 0.3 percent—only eighteen souls in Bodie's population of some fifty-four hundred. Census data for California is similar—blacks accounted for 1 percent or less of the population in the 1860, 1870, and 1880 census reports, while Chinese averaged about 9 percent. Persons with Spanish surnames constituted about 1.9 percent of the population in Bodie. Some of them had been born in California, but most had come from Mexico. Categorizing them as white or nonwhite is difficult, because many of them were both, designated in Mexico as *mestizo*—a combination white and Indian.

In Bodie, no organized violence was ever reported as having been directed at either the Chinese or Mexicans, the only two minority groups with any significant numbers. They certainly would not have been hapless victims. Many of them were armed with guns and knives too, and were not averse to using them. Almost all their fights were with members of their own groups. With the Chinese this occasionally meant clashes between rival tongs for control of Chinatown's gambling halls, brothels, and opium dens. One such battle erupted in gunfire on a warm summer evening in Bodie's Chinatown and continued for more than an hour before police could separate the warring factions. Hundreds of rounds were fired during the battle, and at least one Chinese was killed, several others seriously wounded. Witnesses said that another three or four Chinese had been killed, but their bodies had been carried away before police arrived. Some thirty Chinese were arrested, and eight were charged with murder. However, one by one the charges were dropped for lack of evidence. It proved impossible to get any Chinese to testify. They preferred to take care of things among themselves.

An atypical Chinese who became notorious outside of Bodie's Chinatown was Sam Chung. A member of the Yung Wah tong, he spoke fluent English and had forsaken the traditional Chinese queue and dress for an American haircut and western clothes. Because of his bilingual fluency, he often acted as an interpreter for justice and superior courts in cases involving Chinese. Chung was also Chinatown's leading businessman, owning a two-story building that contained a lodging house, restaurant, and laundry. It was this building that first brought Chung notoriety. Late one night a fire erupted in the building, which within minutes was engulfed in

flames. Volunteer firemen rushed to the scene, but they could do nothing more than save neighboring buildings. It was thought that a defective stovepipe in the roof of the kitchen had caused the conflagration..

All was not lost for Chung. He had insured the building for fire and collected the handsome sum of \$5,000. Meanwhile, the insurance company quietly began an investigation. Within a few months Chung and two accomplices were arrested for setting the fire. The county district attorney, relying on information provided by the Board of Underwriters of San Francisco, told Bodie newspapers that he had "evidence which will undoubtedly convict all of them." Chung, however, retained one of Bodie's most respected and successful attorneys, John McQuaid, and within weeks the arson charges were dropped.

Chung made news again when he shot and badly wounded Ah Goon and Sam Wang, an opium den proprietor. Chung disappeared before police arrived but was later identified as the shooter and arrested. He was charged with assault with intent to commit murder, remanded by the justice court to the custody of the sheriff, and unable or unwilling to post a bond of \$3,000, was taken to the county jail at Bridgeport. A month later he was indicted by the Mono County grand jury. John McQuaid, again serving as Chung's lawyer, again got the charges dismissed, and Chung was released.

Chung was soon back at work, which now included vegetable farming a tract behind his cabin on Rough Creek. Early one morning Prudencia Encinos, "a well known and much respected Mexican," in the words of the *Bodie Chronicle*, was driving his wood-laden mules past Chung's cabin when the mules strayed into Chung's vegetable fields. Angrily, Chung grabbed a double-barreled shotgun and sent a load of buckshot into Encinos. The Mexican was rushed to a doctor, but he died that night. Chung was arrested and lodged in the Bodie jail. When rumor spread that a group of Encinos's friends were planning to take him, town marshal John Kirgan shackled Chung to a deputy and, under the cover of darkness, sent the pair to the county jail at Bridgeport. And none too soon. A party of a dozen masked Mexicans arrived at the jail. Brandishing six-shooters, four of them rushed into the jail's office and demanded that Marshal Kirgan hand over Sam Chung. Kirgan told them that Chung had been taken to a secret location in the mountains and was heavily guarded. The Mexicans ordered the doors to the cells opened and did not leave until they had identified each prisoner.

Safe in the jail at Bridgeport, Sam Chung this time retained Patrick Reddy as his lawyer. The tall, handsome Reddy had never lost a case in Bodie and would soon become one of San Francisco's most famous and distinguished attorneys. Before he turned to law he had been a wild, hard-drinking miner who never backed down and fought equally well with fists or guns. He turned that natural aggression, passion, and courage to law after he was bushwhacked and lost an arm. He prepared his briefs

carefully and thoroughly, had near-total recall, and captivated judge and jury with a commanding voice and beautiful diction. If one were facing the death penalty, it was wise to retain Reddy.

Indicted for murder by the grand jury, Chung was brought to trial in superior court. His chances for acquittal appeared hopeless. "There is no doubt in the mind of any person at all familiar with the circumstances of the killing," said the *Bodie Standard*, "that Sam Chung committed an unprovoked, cold-blooded and barbarous murder." Yet, in a brilliant forensic display Patrick Reddy put doubt in the minds of at least a few of the jurors. The trial ended in a hung jury.

The prosecution moved to have Chung retried, but through deft maneuvers Reddy was able to have the new trial delayed nearly a year. The delay, a particularly useful tactic in the Old West, proved beneficial as usual. In the intervening time one key prosecution witness died and another left California. In the second trial the jury deadlocked, six to six. The prosecution, now thinking that it would be impossible to win a conviction, asked the court to dismiss the murder charge against Chung. The motion was denied, and two months later Chung went to trial for a third time. Patrick Reddy was his usual brilliant self, and the jury returned a unanimous verdict of not guilty. "It is hardly necessary to state," said the *Bodie Standard*, "that in this Chinaman's case justice has not been done, neither has public sentiment been satisfied. But this is nothing new in Mono County, and now it only remains for Chung to settle down, behave himself and become a good American."

If Sam Chung was Bodie Chinatown's most notorious badman, then Black Bart was California's most notorious and most romantic outlaw. Born on a farm in upstate New York in 1830 to immigrant English parents, Charles Boles, as he was known then, grew up quietly with his older brother, David. The Boles boys joined the rush to California in '49 but did not reach the gold fields until 1850. David died in 1852, but Charles continued prospecting until 1854, when he left for New York. He got as far as Decatur, Illinois, where he married and settled down to raise a family. Life was uneventful until the Civil War erupted and Charles Boles found a real calling. He enlisted in the Union Army and served with distinction, fighting at Vicksburg, Chattanooga, Kennesaw Mountain, and Atlanta. He was severely wounded in one battle but recovered and returned to his unit. He rose from private to first sergeant and then, just before the war ended, was commissioned a second lieutenant. His unit was deactivated immediately, and he never had the opportunity to actually serve as an officer.²⁸

Boles returned to his wife and daughters in Illinois, but a quiet life would never again satisfy him. He was soon off for the mining camps of Montana and Idaho, writing his wife every few months saying he would be home presently. His wife, Mary, was overjoyed when a letter arrived, always fearing for her husband's safety in

the Wild West. She received what proved to be her last letter from him in 1871. He was in Silver Bow, Montana, and again said that he would be on his way home soon. For unknown reasons he stopped writing but did not stop moving about, first to Utah and then, in 1874, to California. Meanwhile, his wife was frantic. She sold the family home to raise money to search for her missing husband and moved in with relatives. She and her daughters eked out a living by sewing.

Instead of prospecting in California, Boles taught school. Then on a hot July day in 1875, he committed his first robbery, of a stagecoach with a Wells Fargo express box aboard, which was working its way up a steep grade between Sonora and Copperopolis in the Sierra foothills. Twenty-eight more stagecoach holdups would follow, making Boles the most prolific highwayman in U.S. history. His holdups all followed a similar pattern. Always working alone, he was well disguised by a hood and long duster and impossible to identify, although his deep and resonant voice was distinctive. He kept a polite demeanor. He wielded a double-barreled shotgun. He took only the contents of the Wells Fargo express box and left the passengers unmolested. He disappeared into the brush and escaped on foot. Also, beginning with his second stagecoach robbery, he left behind scraps of paper with rhyme. The first one said:

I've labored long and hard for bred
For honor and for riches
But on my corns too long you've tread
You fine haired Sons of Bitches

—Black Bart, the Po8

"Black Bart," the gentlemanly poet bandit, immediately caught the public's fancy. Wells Fargo was not nearly so enamored with him. Following his first robbery, the express company put James B. Hume on the case. Jim Hume was California's first famous detective, and deservedly so. However, this Black Bart character had him stumped. First of all, he had no idea of Black Bart's real identity. Slowly and methodically Hume began to assemble evidence until he had a good understanding of Black Bart's *modus operandi*. He also developed a profile for Black Bart. Although Black Bart usually wore socks over his boots to confuse trackers, Hume determined from footprints that the highwayman wore a size eight boot. From that he assumed that Black Bart was of medium height. Because Black Bart could cover thirty miles or more a day on foot through rugged country, Hume knew he must be lean and extraordinarily fit. From the road agent's conversations with various drivers and passengers, it was also clear that he spoke with authority and was articulate, well mannered, and educated. The poetry also suggested some education. Finally, there was the voice—deep, resonant, and well modulated. Hume concluded that the voice was not that of a young man but of someone at least in his thirties or forties. Witnesses

eventually began to confirm Hume's deductions. Over months and years, Hume painstakingly put together the descriptions until a clear picture emerged: the stranger was middle aged but taut and muscular with a military bearing. He was of medium height. He was handsome, with blue-gray eyes and gray hair. He had a very deep, resonant voice.

Jim Hume surmised that Black Bart was not the type to hole up in a mountain cabin for long periods between holdups. He thought that the highwayman probably sought refuge in the city. Hume was right again. Black Bart loved San Francisco, its culture and amenities. When in the city, which was most of the time, he dressed elegantly, wearing a derby hat, a silk cravat with diamond stickpin, a tailored tweed suit, and a velvet-collared overcoat. He looked and sounded like a prosperous businessman. He said that he had investments in several mines and speculated in mining stock. No one doubted him.

As Black Bart's stage robberies continued, the price on his head increased. Wells Fargo offered a \$300 reward, the state of California another \$300, the U.S. government \$200. His luck nearly ran out on his twenty-third holdup when a guard's bullet creased his scalp. Finally Lady Luck did desert him, on his twenty-ninth robbery. On a Sunday morning in early November 1883, Black Bart robbed his last stagecoach. The holdup took place just outside Copperopolis at almost the same spot where he had begun his career as a highwayman eight years earlier. After stopping the stage and taking gold coins and gold dust from the express box, Black Bart was surprised when a teenage boy, who was some distance away, opened fire with a rifle. Black Bart leaped for the brush on the side of the road and quickly disappeared. But he left several articles behind in his hasty departure, including a handkerchief with a badly faded laundry mark on it that read "F.X.O.7."

Hume gave the handkerchief to a detective he had hired six months earlier to do nothing but work on the Black Bart case. The detective was Harry Morse, a former sheriff of Alameda County, who was beginning to develop his own private detective agency. Since Hume reckoned that Black Bart lived in San Francisco between stagecoach robberies, he told Morse to start there. All Morse had to do was identify the laundry with the mark on the handkerchief. This was not a simple task—there were more than ninety laundries in the city. Morse hit the streets, visiting laundry after laundry, hour by hour, day by day. On the eighth day, he walked into Ferguson & Bigg's California Laundry. The proprietor recognized the mark and said that such laundry must have gone through one of their outlets, a tobacco shop on Post Street.

Morse hurried to the tobacco shop and had the owner check his records for the mark. The owner identified it as that of Charles Bolton, a wealthy mining man. Under the guise of a business proposition, Morse got himself introduced to Bolton. Bolton looked every inch the wealthy mining man he purported to be. He was dressed in an expensive wool suit and bowler hat. He carried a walking stick, wore

a diamond ring, and had a heavy gold watch suspended from a gold chain in a vest pocket. He stood five feet, eight inches, and was ramrod straight. He was solidly built, with gray hair and mustache and deep-set blue eyes. "One would have taken him for a gentleman who had made a fortune and was enjoying it," said Morse. "He looked anything but a robber."

For some time after he was apprehended, Bolton denied that he was Black Bart, even after the driver of the last stage that he had robbed identified him, not by sight but by sound—his distinctive deep voice. More and more evidence was presented to Bolton. He finally accepted his fate and confessed, not only to his last robbery but to all of them. His life as Black Bart poured out of him—stage holdup by stage holdup, getaway by getaway, life in San Francisco. A deal was struck, and he pled guilty to his last holdup. He was sentenced to six years in San Quentin and served four before he was released in 1888. When a reporter then asked him if he intended to resume his career as a highwayman, he answered with a vehement, "No!" Another reporter asked if he might write more poetry, and he replied, "Young man, didn't you hear me say I would commit no more crimes?"

Black Bart, or Charles Boles, returned to San Francisco. He refused an offer to appear on stage in a theatrical production and seemed interested only in living as quietly as possible. Jim Hume had his men tail Boles daily, but suddenly he disappeared. A few days later Hume received a report that Boles was in Modesto, then Merced, then Visalia. In Visalia Boles left a pair of shirt cuffs behind in his hotel room after checking out. On the shirt cuffs was the laundry mark F.X.O.7. He was never seen again.

His long pursuit of Black Bart had helped make Jim Hume a household name. He was arguably the greatest of the many lawmen who served as county sheriffs, town marshals, or policemen in the decades after 1850. He had arrived in the Golden State from an Indiana farm in 1850 and prospected throughout the Mother Lode country for a dozen years before he was appointed city marshal of Placerville, the El Dorado County seat. In 1864 he became the undersheriff of El Dorado County and fought his first gun battle when he and his deputies attempted to capture the Ike McCollum gang. He solved several important criminal cases and helped to make criminal investigation a science, while earning a reputation for honesty, intelligence, and perseverance. In 1873 Wells Fargo made him chief of their detectives. Although he was forty-six years old at the time, he would serve the company for thirty years. He was known as a square shooter by both lawmen and outlaws. Several outlaws looked upon Hume not as an enemy but as an adversary. Hume often humorously noted that nowhere was his personal standing higher than among the residents of San Quentin.

Second only to Jim Hume among early California lawmen was another man



In this 1890 photograph, members of the Los Angeles Police Department drill team display their department's first uniforms, which their predecessors had adopted in the late 1860s. Informally organized during the Gold Rush, California police officers and firefighters became increasingly professionalized in the 1860s. *California Historical Society Collection at the University of Southern California: Title Insurance and Trust Photo Collection.*

whom the pursuit of Black Bart helped make famous, Harry Morse. Morse was reared in New York City and went to sea as a cabin boy in 1845, when he was only ten years old. He arrived in California in '49 and prospected for a time before turning his energies to various business ventures. He found his true calling in 1864, when he became sheriff of Alameda County. He tamed numerous gangs of banditos who operated in the East Bay and in the coastal ranges and shot to death in gun battles the notorious banditos Narato Ponce and Juan Soto. He retired from office in 1878 and formed his own detective agency. By 1888 he had sixty men in his employ, both plainclothes detectives and uniformed private police.

Operating out of San Francisco, the Morse Detective Agency could not help but develop a rivalry with the San Francisco Police Department. Morse's counterpart in the SFPD was Isaiah Lees, who served as captain of detectives from 1856 until 1897,

when he became chief of police. Lees was one of the seminal figures in urban policing, not only in California but also in the United States. Although there was no love lost between Morse and Lees, they nevertheless cooperated on a number of cases. Morse remained actively involved in his detective agency until the early 1900s, when rheumatism slowed him down and eventually forced him to retire.

Thomas Cunningham, another county sheriff involved in the pursuit of Black Bart, became one of California's legendary lawmen. Born in Ireland in 1838, Cunningham immigrated to New York as a boy of ten in 1848 and then to California in 1855. By 1860 he had his own harness-making shop in Stockton and was serving as a volunteer fireman. In 1865 he was made chief of the fire department and, in the same year, was elected to the city council. Six years later he was elected, for the first of many times, sheriff of San Joaquin County. For the next three decades he was a terror to the outlaws who roamed the San Joaquin Valley and the foothills of the Sierra Nevada. He led manhunts for several of California's most notorious outlaws, including Tiburcio Vasquez, Black Bart, and Bill Miner, the "Grey Fox."²⁹

Unlike many lawmen of the era, Cunningham did everything he could to avoid bloodshed. It often meant taking great personal risks and required nerves of steel. He made numerous arrests of desperate men but never had to take a life. On one occasion he shot a horse from underneath an outlaw and then handcuffed the man before he was able to recover from the fall and go for his gun. On another occasion he rode alone into the midst of a hundred armed and angry men to peacefully settle a land dispute between the men and the railroad. When nearly sixty years old, he and three of his deputies trailed two train robbers for twelve days on horseback and then chased them on foot through a marsh alongside a river. At that point Cunningham could have opened fire. Instead he and his deputies closed in on the fugitives, and a deputy yelled to the men to throw up their hands. One of the men dropped his shotgun and raised his hands, but the other aimed his rifle at Cunningham. The sheriff, with his sawed-off shotgun trained on the man, coolly told the robber to drop his gun. The two stared at each other for a moment, and then the robber threw his rifle to the ground.

The first police department in California was organized in San Francisco in 1849.³⁰ Irish-born Malachi Fallon was appointed chief of the thirty-officer force.³¹ He looked the part. An old photo reveals a strong face with a Celtic chin marked by a prominent cleft. He had served with the New York Police Department after it was established in 1845 but left for California late in December 1848, when news of the gold strike finally began sweeping the East Coast. Not long after his appointment, he personally effected the arrest of a man who had murdered his business partner on a hunting trip and then made an arrest of an intoxicated Texan that left witnesses in awe. Fallon found the Texan standing on the sidewalk, waving a Colt revolver, and challenging one and all to fight. When Fallon ordered the man to surrender, he



Los Angeles's first jail and city hall, ca. 1878. Los Angeles grew much more slowly than San Francisco and retained a reputation for lawlessness well into the 1880s. According to local lore, crime was so rampant in 1870 that the U.S. census office wrote back in disbelief after it received the town's statistics. *California Historical Society Collection at the University of Southern California: Title Insurance and Trust Photo Collection.*

leveled his gun at the police chief and fired. The bullet whistled by Fallon's head. Seemingly unfazed, Fallon walked toward the Texan and repeated the demand to surrender. The Texan fired again, and again, the rounds narrowly missing the chief. By now Fallon was within a few feet of the man and, as a witness described, "leaped for the scoundrel, and overpowered him by his herculean strength, and led him gently but firmly to the station house."³²

San Francisco city government was reorganized during 1850, and Fallon was elected city marshal in August of that year. Although his title was different, he still ran the police department. The number of officers under his charge was growing, but not quickly enough to keep pace with San Francisco's rapidly increasing population. Crime became more of a problem, and frustrated citizens, on several occasions, tried to take prisoners from the police and administer summary justice. Each time, Fallon managed to take control of the situation, demonstrating the same kind of steely nerve he had when confronting the gun-wielding Texan. He was not around

to confront the Committee of Vigilance in 1851, however. Two months before the organization of the committee, he and his fellow Democrats were swept out of office in a Whig victory. Fallon never returned to law enforcement. He remained in the Bay Area, operating several businesses before dying at the age of eighty-five in 1899. He recalled his days as chief with fondness, saying:

San Francisco's population was then made up of rough young men with adventurous spirits, excited by the discovery of gold. They needed a strong and experienced hand to keep them in control. Many of them were of the cowboy class, while the worst were deserting whalemens coming from all parts of the world. They were not men of evil principles but they felt the excitement of the time and enjoyed the lack of restraint in a town where there was no social organization or adequate legal control. Outside of this looseness of moral forces at the time, they were good fellows.³³

Lawmen such as Malachi Fallon, Tom Cunningham, Harry Morse, and Jim Hume helped to tame the California frontier and control the "good fellows." It was not an easy task. California, in its early years of statehood, was disproportionately armed, young, and male, and full of Sam Browns, John Dalys, and Billy Mulligans. Much of the state was wild and unsettled. Gangs of bandidos, Indian wars, and aggression among and within the state's many ethnic groups added to the mix. Dozens of saloons in every mining camp kept the boys well oiled and ready for action. The mores of frontier society put honor and courage above physical safety and well-being. In ways, though, those same mores protected the old, the weak, the innocent, and the female and tempered the highwaymen who took the express box from the stagecoach but left the passengers unmolested. When the moral code was violated, however, vigilantism often resulted. At the heart of the code was the belief that violent behavior, if within the bounds of honorable conduct, was not only perfectly acceptable, but highly respected and admired.

Again and again the code of the West made the mining camps of California stages for deadly tests of will, skill, and honor. In a Bodie saloon, Tom McDonald had just been knocked down by a vicious blow from the larger and more powerfully built Alex Nixon. McDonald climbed to his feet and said, "Will you give me even chances?" "Yes, by God!" exclaimed Nixon, and the two men drew their guns . . .

NOTES

1. A full and fair discussion of Indian-white conflict, which stands apart from the other kinds of violence discussed in this chapter, would require a chapter-length treatment all its own. Moreover, aspects of the conflict have been described elsewhere in this Sesquicentennial Series. See, for example, James A. Sandos, "'Because he is a liar and a thief': Conquering the Residents of 'Old' California, 1850-1880," in *Rooted in Barbarous Soil: People, Culture,*

and *Community in Gold Rush California*, ed. Kevin Starr and Richard J. Orsi (Berkeley: University of California Press, 2000), 86–112, and Sandos, “Between Crucifix and Lance: Indian-White Relations in California, 1769–1848,” in *Contested Eden: California before the Gold Rush*, ed. Ramón A. Gutiérrez and Richard J. Orsi (Berkeley: University of California Press, 1998), 216–20. Much has been written on the subject, varying from careful and judicious appraisals of the conflict to those flawed by the use of hyperbolic rhetoric. Standard works include: Sherburne F. Cook, *The Population of the California Indians, 1769–1970* (Berkeley: University of California Press, 1976); Cook, *The Conflict between the California Indian and White Civilization* (Berkeley: University of California Press, 1943); Cook, “The American Invasion, 1848–1870,” *Ibero-Americana* no. 23 (Berkeley: University of California Press, 1943); George Harwood Phillips, *Chiefs and Challengers* (Berkeley: University of California Press, 1975); Phillips, *Indians and Intruders in Central California, 1769–1849* (Norman: University of Oklahoma Press, 1993); Phillips, *Indians and Indian Agents: The Origins of the Reservation System in California, 1849–1852* (Norman: University of Oklahoma Press, 1997); George E. Anderson, W. H. Ellison, and Robert F. Heizer, *Treaty Making and Treaty Rejection by the Federal Government in California, 1850–1852* (Socorro, N.M.: Ballena Press, 1978); James J. Rawls, *Indians of California: The Changing Image* (Norman: University of Oklahoma Press, 1984).

The two most important conflicts that the U.S. Army participated in were the Owens Valley Indian War and the Modoc War. The former is treated by Roger D. McGrath in *Gunfighters, Highwaymen, & Vigilantes: Violence on the Frontier* (Berkeley: University of California Press, 1984) and the latter by Richard Dillon in *Burnt-Out Fires* (Englewood Cliffs, N.J.: Prentice-Hall, 1973). Massacres of parties of whites and individual white deaths at the hands of Indians, as well as slaughter of Indians at the hands of whites, were regularly reported in the *Alta California* and the *Sacramento Union*. Such killing is also recorded in numerous gold-rush diaries, letters, and memoirs. Useful personal accounts include: William Jackson Barry, *Up and Down; or, Fifty Years' Colonial Experience in Australia, California, New Zealand, India, China, and the South Pacific* (London: S. Low, Marston, Searle, and Rivington, 1879); E. Gould Buffum, *The Gold Rush: An Account of Six Months in the California Diggings* ([London?] 1850); Lucius Fairchild, *California Letters of Lucius Fairchild*, ed. Joseph Schafer (Madison: State Historical Society of Wisconsin, 1931); Jasper S. Hill, *The Letters of a Young Miner: Covering the Adventures of Jasper S. Hill during the California Goldrush, 1849–1852*, ed. Doyce B. Nunis, Jr. (San Francisco: John Howell, 1964); William Perkins, *Three Years in California: William Perkins' Journal of Life at Sonora, 1849–1852*, ed. Dale L. Morgan and James R. Scobie (Berkeley: University of California Press, 1964); Daniel B. Woods, *Sixteen Months at the Gold Diggings* (New York: Harper and Brothers, 1851).

2. John Rollin Ridge, *The Life and Adventures of Joaquin Murieta, the Celebrated California Bandit* (1854; reprint, with an introduction by Joseph Henry Jackson, Norman: University of Oklahoma Press, 1955).

3. Walter Noble Burns, *The Robin Hood of El Dorado* (New York: Coward McCann, 1932); Joseph Henry Jackson, *Bad Company* (New York: Harcourt, Brace, 1949). For Chicano authors arguing the social bandit thesis, see Pedro Castillo and Albert Camarillo, eds., *Furia y Muerta: Los Bandidos Chicanos* (Los Angeles: UCLA Chicano Studies Center, 1973).

4. While much has been written on Murieta, the best scholarly works are William B. Secrest, *Joaquin: Bloody Bandit of the Mother Lode* (Fresno, Calif.: Saga West Pub. Co., 1967); James F. Varley, *The Legend of Joaquin Murrieta, California's Gold Rush Bandit* (Twin Falls,

Idaho: Big Lost River Press, 1995); and Remi Nadeau, *The Real Joaquin Murieta* (Corona del Mar, Calif.: Trans-Anglo Books, 1974). An excellent summary and historiographical discussion is found in John Boessenecker, *Gold Dust and Gunsmoke* (New York: John Wiley & Sons, 1999), 73–99. Flawed but useful in part is Frank Latta, *Joaquin Murrieta and His Horse Gangs* (Santa Cruz, Calif.: Bear State Books, 1980). The account that follows is taken from these sources.

5. Not widely known today, Pio Linares led a band of highwaymen on California's central coast that was, for a time during the mid-1850s, nearly as murderous as Murieta's gang. Linares had been born in California, but he robbed and murdered other native Californians, Sonoran Mexicans, Americans, or anyone else who traveled El Camino Real. Moreover, his gang included Jack Powers (or Power), an Irish immigrant and U.S. Army veteran of the Mexican War, who came to share the leadership role with Linares. One of the gang's most dastardly deeds was committed without the leadership of Linares or Powers, but demonstrated the willingness of the bandidos to prey on their own. Six gang members led by Joaquin Valenzuela and Juan Salazar swept down upon Rancho Las Cruces on the evening of June 7, 1856, and shot Tomas Romero, leaving him severely wounded. They then tied up a sixty-year-old widow and raped her before fleeing with two hundred stolen dollars. After another year of robbery and murder, a vigilance committee was organized in San Luis Obispo to deal with the Linares bandidos. Of the 148 men who signed the committee's muster roll, 62 had Spanish surnames. Linares was eventually killed in a gun battle with vigilantes, and several members of his gang were captured and later hanged. Powers escaped by steamer to Mexico but was killed in Arizona a few years later.

For Linares and other bandidos of the central coast and southern California, see Myron Angel, *History of San Luis Obispo County, California* (Oakland: Thompson & West, 1883), esp. 131, 133, 167–68, 294–96, 299–306, 356; Hubert Howe Bancroft, *History of California*, vol. 4 (San Francisco: The History Company, 1888), esp. 655–56; Bancroft, *Popular Tribunals*, vol. 1 (San Francisco: The History Co., 1887), esp. 487; Boessenecker, *Gold Dust and Gunsmoke*, 100–133; Robert Glass Cleland, *The Cattle on a Thousand Hills: Southern California, 1850–1880* (San Marino, Calif.: The Huntington Library, 1951), esp. 92–93, 96, 250–63; Leonard Pitt, *The Decline of the Californios* (Berkeley: University of California Press, 1966), esp. 149, 169–71; Jesse D. Mason, *History of Santa Barbara County, California* (Oakland: Thompson & West, 1883), esp. 104; W. W. Robinson, *The Story of San Luis Obispo County* (San Luis Obispo, Calif.: Title Insurance and Trust Co., 1957), esp. 20; Dudley T. Ross, *Devil on Horseback* (Fresno, Calif.: Valley Publishers, 1975), esp. 108–28, 165–68.

Newspapers carried dozens of stories on Linares and other bandidos. Especially useful are the *Los Angeles Star*; *Sacramento Union*; *Alta California* (San Francisco); *San Francisco Bulletin*; *Santa Barbara Gazette*; and *Santa Cruz Pacific Sentinel*. An excellent biographical sketch of John Powers is found in William B. Secrest, *Lawmen & Desperadoes: A Compendium of Noted Early California Peace Officers, Badmen, and Outlaws, 1850–1900* (Spokane: The Arthur H. Clark Company, 1994), 268–73.

6. Kevin J. Mullen, *Let Justice Be Done: Crime and Politics in Early San Francisco* (Reno: University of Nevada Press, 1989), 55–71.

7. Edwin A. Beilharz and Carlos U. Lopez, eds., *We Were 49ers! Chilean Accounts of the California Gold Rush* (Pasadena, Calif.: Ward Ritchie Press, 1976), 31.

8. The law required foreigners to pay a fee of \$20 a month. The fee was substantial, even in the cost-inflated diggings. It caused a particular problem for Mexicans (mostly Sonorans)

who had rushed into the southern end of the Mother Lode. They held a mass protest meeting in the mining camp of Sonora (there were good numbers of Frenchmen among the protestors as well) and announced that they would refuse to pay the fee. Hundreds of American miners, many of them wearing their uniforms from the Mexican War, rushed to the aid of the tax collectors. Reeling from the tax and the threat of violence, the great majority of Mexicans—some ten thousand—left the Mother Lode during the summer of 1850 and returned to Mexico. Although American miners were happy with the exodus, American merchants were not. The merchants had lost thousands of customers, and they immediately began lobbying the state legislature for a repeal of the tax, which was effected the very next year, in 1851. See Secrest, *Lawmen & Desperadoes*, 318; Pitt, *Decline of the Californios*, 60–62; M. Colette Standart, "The Sonora Migration to California, 1848–1856: A Study in Prejudice," *Southern California Quarterly* (Fall 1976): 335–38, 342; Carol M. DeFerrari, ed., *Annals of Tuolumne County* (Sonora, Calif.: The Mother Lode Press, 1963), 133, 138.

9. Beilharz and Lopez, *We Were 49ers!* 104, 123, 127, 139–49; Boessenecker, *Gold Dust and Gunsmoke*, 47–51; James J. Ayers, *Gold and Sunshine: Reminiscences of Early California* (Boston: The Gorham Press, 1922), 46–58.

10. The three convicted murderers were executed by firing squad. John Boessenecker, in *Gold Dust and Gunsmoke*, 51, argues that the ear croppings were excessively harsh punishments and were intended to intimidate other Chileans into leaving the diggings. This very well may have been the case, but it is worth noting that ear cropping was not an uncommon punishment for American thieves in frontier California, and that punishments for thieves included hanging.

11. For dueling, see Benjamin C. Truman, *The Field of Honor* (New York: Fords, Howard & Hulbert, 1883); William B. Secrest, *Blood and Honor* (Fresno, Calif.: Saga West Publishing Co., 1970); Robert Baldick, *The Duel: A History* (New York: Barnes & Noble Books, 1996). An excellent summary of dueling in California during the 1850s is found in Boessenecker, *Gold Dust and Gunsmoke*, 204–24.

12. *San Francisco Post*, September 7, 1878; Truman, *Field of Honor*, 315; Hubert Howe Bancroft, *California Inter Pocula* (San Francisco: The History Company, 1888), 754–55; Boessenecker, *Gold Dust and Gunsmoke*, 209–13.

13. *Alta California*, June 7 and 8, 1854; Bancroft, *California Inter Pocula*, 760; Boessenecker, *Gold Dust and Gunsmoke*, 215–16.

14. For Edward Gilbert's career in San Francisco, see Mullen, *Let Justice Be Done*, 17, 40, 42, 49, 66, 70.

15. *San Francisco Examiner*, February 13 and 20, 1881; Truman, *Field of Honor*, 308–13; George C. Barns, *Denver the Man* (Wilmington, Ohio: The Author, 1949); Boessenecker, *Gold Dust and Gunsmoke*, 213–14.

16. The Broderick-Terry duel is the most famous and most written about in California history. Excellent scholarly works on the parties involved are David A. Williams, *David C. Broderick: A Political Portrait* (San Marino, Calif.: The Huntington Library, 1969), and A. Russell Buchanan, *David S. Terry of California: Dueling Judge* (San Marino, Calif.: The Huntington Library, 1956). See also Truman, *Field of Honor*, 81–82, 392–410; Bancroft, *California Inter Pocula*, 763–73; Boessenecker, *Gold Dust and Gunsmoke*, 219–23.

17. Samuel L. Clemens, *Roughing It* (New York: Harper & Row, 1913), 197.

18. Stephen J. Field, *Personal Reminiscences of Early Days in California* (privately published, 1893), 79–80, as quoted in Boessenecker, *Gold Dust and Gunsmoke*, 302.

19. *Mariposa Chronicle*, April 21, 1854; *San Francisco Chronicle*, May 1, 1892; Myron Angel, *History of Nevada* (Oakland: Thompson & West, 1881), 344; San Quentin Prison Register, convict no. 762; Sally S. Zanjani, "Sam Brown: The Evolution of a Frontier Villain," *Pacific Historian* (Winter 1985): 6-10; John Boessenecker, *Badge and Buckshot* (Norman: University of Oklahoma Press, 1988), 61-65.

20. McGrath, *Gunfighters, Highwaymen, & Vigilantes*, 86-101.

21. Secrest, *Lawmen & Desperadoes*, 241-45; William B. Secrest, "There Once Was a Badman Named Mulligan," *Real West* (August 1984): 14-15, 161.

22. See Hubert Howe Bancroft, *Popular Tribunals* (San Francisco: History Publishing Co., 1887), and Richard Maxwell Brown, *Strain of Violence: Historical Studies of American Violence and Vigilantism* (New York: Oxford University Press, 1975).

23. *Esmeralda Union*, March 31, 1864.

24. Mullen, *Let Justice Be Done*. Mullen argues that the 1851 committee has escaped close scrutiny and criticism because of the work of Mary Floyd Williams, which makes a persuasive case for the vigilantes. See Mary Floyd Williams, *History of the San Francisco Committee of Vigilance of 1851* (Berkeley: University of California Press, 1921), and Williams, ed., *Papers of the San Francisco Vigilance Committee of 1851* (Berkeley: University of California Press, 1919). Mullen, a former deputy chief of the San Francisco Police Department, has painstakingly compiled the first accurate data for criminal offenses in San Francisco during the early 1850s. His pioneering work makes it clear that claims of twelve hundred murders in the city during those years are wild exaggerations. See, for example, *Let Justice Be Done*, 110, 144, 203, 216, 230.

25. Interpretations of the Committee of Vigilance of 1856 in San Francisco vary greatly. Besides Bancroft and Brown, mentioned in note 22, see John Hittell, *The History of San Francisco and Incidentally of California* (San Francisco: A. L. Bancroft and Co., 1878); Roger W. Lotchin, *San Francisco, 1846-1856: From Hamlet to City* (New York: Oxford University Press, 1974); and Robert M. Senkewicz, *Vigilantes in Gold Rush San Francisco* (Stanford: Stanford University Press, 1985), especially his historiographical analysis on pages 203-31. Also excellent for historiography is Doyce B. Nunis, Jr., ed., *The San Francisco Vigilance Committee of 1856: Three Views* (Los Angeles: Westerners, 1971).

26. Kenneth Lamott, *Chronicles of San Quentin: The Biography of a Prison* (New York: David McKay Co., 1961); Shelley Bookspan, *A Germ of Goodness: The California State Prison System 1851-1944* (Lincoln: University of Nebraska Press, 1991).

27. McGrath, *Gunfighters, Highwaymen, & Vigilantes*, esp. 247-60; Ben Nickoll, "Violence on the American Frontier: Nevada County, California, 1851-56" (history honors thesis, UCLA, 1986); McGrath, "Violence and Lawlessness on the Western Frontier," in *Violence in America: The History of Crime*, vol. 1 (Newbury Park, Calif.: Sage Publications, 1989), 122-45.

28. Richard Dillon, *Wells, Fargo Detective: A Biography of James B. Hume* (Reno: University of Nevada Press, 1986); Jackson, *Bad Company*; William Collins and Bruce Levene, *Black Bart: The True Story of the West's Most Famous Stagecoach Robber* (Mendocino, Calif.: Pacific Transcriptions, 1992); John Boessenecker, *Lawman: The Life and Times of Harry Morse*, 1835-1912 (Norman: University of Oklahoma Press, 1998).

29. Boessenecker, *Badge and Buckshot*, 101-29; *An Illustrated History of San Joaquin County* (Chicago: Lewis Publishing Co., 1890), 95-100, 617; Secrest, *Lawmen & Desperadoes*, 101-105; George Henry Tinkham, *History of San Joaquin County, California* (Los Angeles: Historic Record Co., 1923), 218, 289-90.

30. Mullen, *Let Justice Be Done*, 77. The establishment of the SFPD in 1849 came only five years after the organization of the nation's first police force in Philadelphia. New York City founded its force in 1845. See David R. Johnson, *Policing the Urban Underworld* (Philadelphia: Temple University Press, 1979).

31. Kevin J. Mullen, "Malachi Fallon," *California History* (Summer 1983), 100-105; Mullen, *Let Justice Be Done*, 77, 81, 105, 126, 133, 145, 165, 205, 250.

32. "Further Reminiscences of Pioneer Days: Malachi Fallon as Chief," *Alta California*, October 26, 1884.

33. Mullen, "Malachi Fallon," 100; *Oakland Tribune*, April 2, 1961.

3

The Courts, the Legal Profession, and the Development of Law in Early California

Gordon Morris Bakken

The Gold Rush flooded California with people seeking riches and expecting the institutions of the law to protect their interests. To create those institutions, delegates went to Monterey in 1849 for the first state constitutional convention. The delegates assembling in Monterey in 1849 had a variety of concerns in writing a constitution for the new state. When considering the judiciary, delegates were anxious about the need for a fair and speedy trial, the costs of litigation, and the role of judges in making law. In discussing these issues, the delegates acknowledged both our national constitutional traditions and California's uniqueness in its Spanish and Mexican heritage. They also debated the nature of a constitution and the need to keep legislation out of fundamental law. The concepts of justice, industry, and economy in government were in contest in these debates. Justice was what courts dispensed, but the extent to which courts should have the authority to "legislate" for the state was at issue. Industry was what the delegates wanted to bring prosperity to the state, and the issue was how the lawgiving branches of government could facilitate that goal. Economy in government was what delegates thought taxpayers wanted. Good government at absolute minimum expense was a Jacksonian goal that obviously found voice in 1849 in California. But a broader political philosophy of popular sovereignty also clearly resonated at the 1849 convention. As historian Christian G. Fritz has so ably pointed out, the delegates knew that they had a charge as constitution-makers to organize civil government and establish social institutions through fundamental law. Although the people were sovereign and the legislature was to do the will of the people in passing statutes, a constitution, when ratified by the people, became higher, fundamental law.¹ In the American mind, the judiciary was the institution that would have to interpret and apply that fundamental law.

The structure of the judiciary was not a serious question for the delegates, but the

function of a system of justice was. The structure of the California judiciary set out in the 1849 constitution was a traditional hierarchical one based on local trial courts run by a justice of the peace. The second-level trial court was the county court. The district court was the next level of trial court. It had civil jurisdiction over controversies involving more than \$200. Each county had one judge, who, sitting with two justices of the peace, constituted a court of sessions. Finally, the California Supreme Court sat as the highest court of the state to hear appeals from the district courts. Other inferior trial courts quickly emerged to fit local circumstances. Justices of the peace for cities and counties, municipal courts, and police courts became part of the judicial landscape of California.

During the 1849 debates, many delegates wanted certain provisions of law set in constitutional concrete so that neither the legislature nor the judiciary could tamper with their handiwork. L. W. Hastings, a Sutter County attorney from Ohio, proposed that "as the true design of all punishment is to reform and not to exterminate mankind, death shall never be inflicted as a punishment for crime in this state." M. M. McCarver, a Sacramento farmer, retorted that "as California is situated at present, it [reformatory institutionalization] is impracticable. The construction of penitentiaries would be enormously burdensome." He also cited history, noting that as the death penalty "has been a practice ever since the world was created, perhaps it would be as well to let it rest awhile longer."² The convention voted down the Hastings proposal to abolish the death penalty.³

In the California of 1849, the death penalty and the costs of incarceration in prison were related issues. The practice of the mining camps was to give the criminally accused a trial by jury, and if the accused were found guilty, to sentence the criminal ("enemy deviant," in modern parlance) to whipping, banishment, or death. The sentence was carried out immediately.⁴ This procedure and punishment scheme was one learned from the American experience and driven by the absence of jails in the diggings. With the creation of towns and jails, the question became whether local taxpayers and later state taxpayers wanted to build prisons or to save the costs of incarceration by imposing the penalties of whipping or death.

In 1851 the California legislature would decide that juries, the sovereign people, should impose the appropriate penalties for crimes against property. The statute gave the jury discretion in robbery cases of setting prison sentences of one to ten years or death. Grand larceny had the same provisions and petit larceny, then defined as stealing property worth less than \$50, had the penalty of "imprisonment in the County jail not more than six months, or . . . fine not exceeding five hundred dollars, or . . . any number of lashes not exceeding fifty upon the bare back, or . . . such fine or imprisonment and lashes in the discretion of the jury."⁵ The first appellate case to test this statute found it constitutional. The defendant, George Tanner, stole \$400 worth of food on April 3, 1852, went to trial before a court of sessions on



In his lively memoir *Mountains and Molehills* (1855), British adventurer Frank Marryat included this woodcut of a "Carpenter Judge" who dispensed informal justice in the tiny mining camp of Tuttle-Town. "A Sonorian was found one day in possession of a mule not his own," Marryat recalled. "While the culprit quakes in the grip of our constable, our judge exhorts the villain to be more honest in his dealings." *California Historical Society, FN-31985.*

April 14, lost an appeal in the district court on April 24, lost his petition before the Supreme Court on July 16, and lost his life on July 23. Justice was swift, sure, and carried out the will of the people as expressed by a jury. For the delegates of 1849 or the jury of 1852, the incarceration of enemy deviants was an unwelcome expense for local taxpayers, created the possibility of having the convict back on the streets in the future, and did not present the same type of lesson as the more severe penalties to others in the society who would prey on law-abiding citizens.

Other 1849 delegates saw equally great evils on California's horizon. Henry Wager Halleck, a San Francisco attorney and later President Abraham Lincoln's chief of staff, thought that a provision prohibiting lotteries had to be in the constitution because they were "immoral." The "evils of the lottery system" had to be crushed regardless of arguments that such a prohibition was legislation, not fundamental law. Kimball Dimmick, a San Jose lawyer, agreed. "Whatever might have been usual in other Constitutions," he argued, "it was time for this Convention to present to the people of California a Constitution which would prohibit any injurious or immoral practice."⁶ William Gwin, perhaps the best-informed and politically seasoned delegate, saw another monster, the banks. He moved an amendment to prohibit banking in California.⁷ J. M. Jones, a San Joaquin attorney, similarly announced that he was "prepared to go to any extent against banks in this country. The inhabitants are against them; public opinion everywhere is against them."⁸ Gwin went further. "Public opinion throughout the United States is against the banking system," he contended.⁹ For California, it was a time to be tested. "Let us guard against infringing on the rights of the people, by legalizing the association of capital to war upon labor," Gwin remonstrated.¹⁰ Charles T. Botts, a Monterey attorney, also wanted "to crush this bank monster." He warned, "if you leave a loop-hole, this insinuating serpent, a circulating bank, will find its way through, because of the absolute necessity of the community for a paper currency."¹¹ In the Jacksonian rhetoric and mind of the time, the evil was banking and the remedy was constitutional prohibition.

When the delegates debated the judicial article, they expressed the problems of their times in their rhetoric. Kimball Dimmick wanted a permanent judicial system, not subject to the legislative and popular winds of time. The system of courts "should not be established with any view to a change at some future period; that when practitioners in these courts bring in their cases they may know where they are to end." Dimmick wanted to "prevent endless litigation" stemming from rapid judicial personnel changes.¹² McCarver was concerned about swift and sure justice. He favored "a fair trial before a jury, and whenever they have decided the case, if they say hang him, then hang him in thirty days." He did not want to give the convict "an opportunity to escape." The Sacramento farmer did not want a convict "to get free . . . by any quibble of the law."¹³ But Winfield Sherwood, a Mormon Island lawyer, supported the right of appeal, noting that "if he is guilty, he will be punished notwithstanding the appeal."¹⁴ One delegate retorted that the problem was not appeal, but the lawyers representing men of money who could afford the process. To him, lawyers were "like vultures upon dead bodies . . . although the lawyers know they cannot succeed in their suits, they urge them to go on."¹⁵ Thomas L. Vermeule, a Stockton lawyer, controverted the argument, stating his belief "in abstract principles. I believe in their justice. If a principle be good in the abstract, it must be good in practice; and I believe in the right of appeal as a righteous abstract principle."¹⁶



Attorney Henry Wager Halleck came to California as an Army officer during the Mexican War and soon established the state's largest legal firm by specializing in land-grant disputes. San Francisco-based Halleck, Peachy & Billings represented more than 120 Californios in their struggles to establish legal claim to their lands. Halleck himself grew fabulously wealthy and in 1853 built the Montgomery Block in San Francisco. He posed for this photograph during the Civil War while serving as Abraham Lincoln's chief of staff.

Courtesy Huntington Library.

Additionally, Vermeule castigated the anti-lawyer sentiment in the convention. "Lawyers are a very useful body of men, and when this Constitution goes forth to the world it well [*sic*] be greatly indebted to them for the part they took in its formation," he declared.¹⁷

The convention also considered the role of trial judges and juries. Pacificus Ord, a Monterey attorney, proposed that judges could not charge juries on fact, but could "state testimony and declare the law."¹⁸ Delegate Botts thought that judges given too much latitude "could become a party to a suit . . . [and] great injustice may proceed from it."¹⁹ Swayed by the arguments, Ord changed his position on stating testimony and favored limiting the judge to stating or expounding the law.²⁰ Winfield Sherwood regarded the judge as "an impartial umpire" who needed to sort out the testimony and the law for the jury.²¹ Hastings agreed with Botts, based on abuses from the bench in his experience.²² As the debate wore down, Kimball Dimmick attacked the proposal as legislation. "I am opposed to introducing [into] our Constitution sections which are more properly matters for legislative action," he maintained. Rather, "our object is to establish in this article a fundamental judiciary system, and it is not necessary that we incorporate these trivial incidents which belong to the statute books of the State, or the books of the common law," Dimmick submitted.²³ With the trivial aside, the delegates passed a hierarchical system of courts. A California Supreme Court and state trial courts were established.²⁴

The discussion of law, lawyers, judges, and juries again highlights the popular sovereignty and Jacksonian democratic rhetoric of the times. Those who feared the caprice of the people, the democratic rabble, wanted juries harnessed and elite judges in control of trials and appeals. Lawyers were not to be trusted, regardless of the fact that Andrew Jackson was a lawyer, because they used procedure, technicalities, and the like to thwart the will of the people. Whigs saw this thinking as destructive of American society and anti-bank actions as economically naive at best. In the judiciary, at least, there was some protection for the future: elite lawyers on the bench could preserve the republican government that Whigs thought necessary for the future of California.

California's constitutional convention was not unique in its time. Utah held a constitutional convention in 1849 in a failed effort to escape territorial status. New Mexico's first constitutional convention movement started in November 1849 and ended in Congress in 1850.²⁵ California's unauthorized constitutional convention, its 1849 constitution, and the Compromise of 1850 brought statehood. For Utah and New Mexico, decades would pass before statehood.

The first legislature meeting in San Jose in December 1849 put judges on the bench in 1850. Serranus C. Hastings became California's first chief justice, and nine men became district judges. James A. McDougall became the first attorney general, as the legal system moved into a period of constitutional legitimacy.²⁶ Hastings was

A "PILE,"
OR,
A GLANCE AT THE WEALTH
OF THE
MONIED MEN
OF
SAN FRANCISCO AND SACRAMENTO CITY.
ALSO,
AN ACCURATE LIST OF THE LAWYERS,
THEIR FORMER PLACES OF RESIDENCE,
AND
DATE OF THEIR ARRIVAL IN SAN FRANCISCO.

SAN FRANCISCO,
COOKE & LECOUNT, BOOKSELLERS,
1851.

This 1851 pamphlet listing the "monied men" of San Francisco and Sacramento includes more than 150 lawyers. The author compiled the pamphlet in the hopes of convincing easterners that California did not lack "permanency." He also hoped that future historians would point to these men as "evidences of the boundless resources of our state, the enterprise of her early settlers, and of the breadth and solidity of that government, whose liberal principles encouraged them in founding a mighty empire on the shores of the Pacific." *Courtesy City of Sacramento, History and Science Division, Sacramento Archives and Museum Collection Center, Eleanor McClatchy Collection.*

born in New York, had practiced law in Iowa, served Iowa in the U.S. House of Representatives and as state chief justice, and came to California in 1849. He was thirty-six at the time of appointment and left the chief justiceship in 1852 to become attorney general. The legislature also elected Nathaniel Bennett and H. A. Lyons as associate justices, but both would leave the court by 1852. There simply was not enough money in the position and so much more to be made in private practice.²⁷

The legislature, in addition to electing justices to the Supreme Court, was passing laws designed to institutionalize civic racism. California was at its birth an equal-opportunity racist state based on the civic racism dating back to Thomas Jefferson and Andrew Jackson.²⁸ Most notably, the legislature on April 22, 1850, passed an "Act for the Government and Protection of Indians" to guarantee their continued slavery and peonage as part of a labor system.²⁹ The genocide practiced by California's pioneers on American Indians largely went unpunished—another odious aspect of the state's early history.³⁰ The legislature also assured blacks and Chinese, along with Indians, that they were basically without the protection of the law by excluding their testimony in court.³¹

The California Supreme Court was no better. In *People v. Hall* (1854) Justice Hugh C. Murray, speaking for the court, upheld Section 14 of the Criminal Proceedings Act excluding African American and American Indian testimony against white persons and extended the ban to Chinese witnesses. Murray wrote that "American Indians and the Mongolian, or Asiatic, were regarded as the same type of human species." Even more certainly, because the legislature had used the word *black* in the statute, all nonwhite races were excluded from testifying against whites. In the land of liberty and opportunity, the California legislature made a clear statement that justice was not for African Americans, American Indians, or Chinese.³²

Murray's racist opinion propelled him as a candidate for the Supreme Court on to the Know Nothing Party ticket in the 1855 election. The Know Nothing candidates accomplished a clean sweep of the California election, including governor, attorney general, two of three Supreme Court justices, and a majority of both houses of the legislature. Racism, bigotry, and California-for-whites-only prevailed.³³ But this brief hold of the Supreme Court did not prevail in all trial courts. In *Brown v. Omnibus Railroad Company* (1866) San Francisco's streetcars were desegregated by court order.³⁴ Black activism in the Bay Area challenged the de jure racism and won.

In Los Angeles, people in the streets challenged Justice Murray's transparent racism. In September 1854 David Brown murdered Pinckney Clifford in a Los Angeles livery stable over a trivial matter. Brown was a well-known lawbreaker.³⁵ The community wanted assurances that this murderer would receive his just desserts; so, too, for Felipe Alvitre, who arrived for trial in October, accused of multiple homicides. Brown's attorney asked for and was refused a change of venue. The press called for equal and swift justice. The juries did their job, and the trial judge sentenced

both Brown and Alvitre to death. Justice Murray stepped in on January 11, 1855, and issued a stay of execution for Brown. The *Los Angeles Star*, in its edition that day, reported that Californios—Mexican residents of the province before the American conquest—were agitating for equal treatment for Alvitre. The *Southern Californian* joined that day's chorus, declaring that Brown's stay of execution was "another evidence of injustice" and asking "whether money, friends, color, or race is to be henceforth, as heretofore the sole arbitrators in our Criminal courts." The district court had done its job, the paper said, objecting to the "interfering hand" of Murray. The next day, Alvitre died at the end of Sheriff James Barton's rope, and a mob "yelling like incarnate devils" seized Brown and dispatched him by hemp. The *Los Angeles Star* reported these events on January 18, 1855, and also that Brown had requested "to be hung by white men, but none came forward to perform his last and only request." This mob violence was a popular response to the rule of law, but also an expression of demands for racial justice and equality. For the rule of law to prevail in frontier California, both the institutions of law and the officers of the law would have to demonstrate that justice—that is, due process and equal protection—was for all.

To many in the legal profession, vigilante justice was supportive of the formal legal system.³⁶ The nineteenth-century lawyer was a vigorous exponent of law and order who supported the system's goals of crime repression but tolerated due process violations to increase the effectiveness of the vigilante system. At the same time, these supporters within the legal community worked to modify the formal system to provide what vigilante justice offered: simplicity, certainty, and severity of punishment.

In the 1850s a transition took place from punishment by whipping and banishment, common in the gold fields, to hanging. California's gold-rush pioneers had started to face enemy deviants by the summer of 1849. Local miners used the forms of criminal procedure, and if the accused was found guilty, the sentence of whipping, banishment, or hanging was carried out immediately. Jails were seldom available, and these other punishments were considered practical and culturally acceptable. Further, the whip could have important benefits, as Alcalde Stephen J. Field, later a United States Supreme Court justice, found when he sentenced a man to a sequence of whippings that ultimately produced the missing bags of gold dust.³⁷ In San Francisco, the vigilante committees of 1851 and 1856 used hanging and the threat of hanging to enforce their versions of order. The problem was that by supporting vigilantism, the public was bypassing the formal institutions of the law and their procedural protections for the criminally accused.

In Calaveras County, William Higby worked another transition, from popular justice to the institutions of justice. Higby was in San Francisco to witness the 1851 vigilance committee's work. In June he wrote to his father that "the people have become dissatisfied with the public authorities of the city because criminals are not



Firsthand accounts of the Gold Rush are rife with descriptions of speedy and brutal vigilante action. A miner working the Yuba River in 1849 recorded that "if a man steals, they flog him for the first offense; second offense they crop his ears, and third, they hang him." Perhaps California's most infamous vigilante groups were two Committees of Vigilance that rose to power in San Francisco in 1851 and 1856. These forbidding committee "sharpshooters" were photographed in May 1856. *Courtesy Oakland Museum of California.*

brought to justice and punished as their deeds merit." Some criminals did get what they deserved, such as a burglar caught red-handed at nine o'clock one evening. He got his due process in a trial that same day and execution at 2:30 A.M. the next morning. Higby characterized it as "a fearful retribution inflicted by an indignant and outraged people." Actually, the legislature on April 22, 1851, had prescribed the death penalty for burglary. But in the Mother Lode country, Higby found that the people would not let the institutions of justice operate, because they had "lost all confidence [in the legal system] and charge[d] the authorities with letting murderers escape." This complaint of pervious jails and corruptible jail keepers was a familiar one. It was the administration of the law, rather than law itself, that the Argonauts did not trust.

Higby, as county district attorney, settled into his office in Mokelumne Hill to do something about this attitude. He vigorously prosecuted criminals and worked hard to obtain guilty verdicts, while a midsize vigilance committee operated concurrently

in the county from 1852 until 1856. In December 1853, he reported that the "people are becoming more civilized or stand in greater fear of the law, for crimes are not so frequent as they were, although 12 persons are now in jail." Civilization, fear of the law, and a diminished crime rate were all related. Higby was the instrument of civilization and law to suppress those who would threaten community stability. For the main, the citizenry held that the value of speedy justice was great, and the regularly constituted authorities were best. Popular sentiment and institutional process seemed to be converging in the county by 1854. Yet the Jackson vigilance committee dispatched a horse thief that year, to Higby's dismay. He rode over and "talked plainly" to the residents. He "was possessed with mixed emotions to find such a total disregard of law, of right, of justice, of humanity, of public decency and morality, in the village where I had resided so long and when too I had done so much to punish crime as was admitted generally."

Despite this setback, Higby redoubled his efforts. He acted with celerity to prosecute the accused, try defendants, and secure convictions. In March, he obtained thirteen convictions in Jackson and reported that the town was "quiet and peaceful." By 1856, the vigilance committees of Jackson and Mokelumne Hill had retired. Law, with order dependent upon the institutions of the law, had prevailed. In many ways, William Higby had established the rule of law in his county for all time. So it was throughout the state. Popular justice gave way to institutional forms. Lawyers, as officers of the court, worked to establish the rule of law across California. They also turned to doing the business of the law.

The California bar of the period from 1850 to 1865 was small relative to that of the remainder of the century, and its lawyers were less well educated than those after 1880. The lawyers in the first decade and a half of the state's history were schooled in letters and honed by apprenticeship, and they were primarily occupied with the business of litigation and real estate transactions. The *Roll of Attorneys* for the state contains 619 names for the bar in the 1850s. By contrast, 2,412 persons would be admitted to practice in the state in the 1890s.³⁸ Men who were not college educated and who had served three to five years as law clerks to an attorney characterized the gold-rush-era bar. Law-school-educated attorneys became prevalent after 1880. The earlier generalists had used oratory and general historical and philosophical principles to persuade audiences, whether political or legal, but with the rise of industrialization, particularly the building of the railroad, this classical tradition gave way to specialization.³⁹

These pioneer attorneys commonly formed partnerships, but rarely did their firms persist into the twentieth century. Henry Wager Halleck, Archibald C. Peachy, and Frederick Billings formed their partnership in 1849 and constituted one of San Francisco's leading firms until the Civil War called the men to other pursuits. Halleck, a West Point graduate, returned to the army to serve as President Lincoln's

chief of staff (1862-64). Billings returned to Vermont and later became president of the Northern Pacific Railroad. Similarly, Richard Tobin arrived in California via Ireland and Chile as secretary to the Most Reverend Joseph Sadoc Alemany, the first Catholic archbishop of San Francisco. After the Gold Rush he turned to law, founding Tobin and Tobin in 1852, and in 1859, with his brother Robert Tobin, the Hibernia Savings and Loan Association. The law firm and the Tobins who would follow were part of that financial institution.⁴⁰ So too was the firm of Athearn, Chandler, Hoffman, and Angell of San Francisco, one of whose founding partners, Giles H. Gray, was admitted to practice in 1856, served on the 1856 San Francisco Committee of Vigilance, and helped found the Savings Union and Trust Company of San Francisco. That firm's early linkage to financial institutions gave way to mining litigation and corporate representation in the 1860s.⁴¹ In Santa Barbara, Charles Huse and Charles Fernald formed a partnership that controlled most of the litigation in the court system there, but such partnerships were temporary.⁴² Partnerships were common, but those that persisted into the twentieth century were rare.

A legal topic that has persisted from the Gold Rush until today has been the legal rights of women. In Spanish and Mexican California, civil law included community property, which recognized marriage as a partnership that shared benefits and burden equally. Common property was that acquired during marriage, and each spouse held equal ownership rights in that property. Essentially, the law recognized the wife's economic contribution to the marriage and valued it equally with the husband's.⁴³ Separate property was that brought to the marriage, as well as that acquired outside the efforts of the couple, such as gifts, legacies, and inheritances.⁴⁴ The delegates to the 1849 Monterey convention wrote a community property section into the state constitution. Although the delegates did not do so to further women's rights, later women's rights activists used the constitutional categories of common and separate property to their advantage.⁴⁵

The constitutional provision was clearly background for legislative and judicial actions that followed. In 1863 the legislature provided that married women could designate someone with the powers of attorney. In 1866 the California Supreme Court upheld the statute despite a constitutional challenge. Chief Justice Silas Sanderson considered a good deal of treatise material and found the statute remedial, subjecting it to a liberal construction. He noted that "statutes which operate to divest vested rights, or in other words, which take the property of one citizen and, without compensation or his consent, bestow it upon another, are opposed to natural right and subversive of any government founded upon fixed laws." Sanderson construed the statute to be remedial and confirming of contracts rather than violating substantive due process of law. Hence, he found the statute was constitutional, and thereby the court lifted another disability of married women in the marketplace.⁴⁶

In the realm of real estate mortgages, however, the California Supreme Court



California daguerreotype artist Robert H. Vance took this wedding portrait sometime in the 1850s. The California Supreme Court ruled in 1855 that a married woman had “no power to make a contract”—all financial and legal documents had to be signed by her husband. Widows were allowed to own property only through their connection to their dead husbands. *Courtesy Peter E. Palmquist.*

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retained the English common-law doctrine that a married woman's signature on a note and mortgage without her husband's did not form a contract. In 1855, Justice Solomon Heydenfeldt stated that a married woman "has no power to make a contract" and that this constituted a doctrine of law "which this Court has no power to disturb."⁴⁷ In *Ramsdell v. Fuller and Summers* (1865) the court warned that the fact of a woman's name on a deed "afforded to all persons seeking to acquire title under it a clue to the title, which they were bound to pursue, or suffer the consequences." The presumption of the law was that she was not married and could pass title, "but she may be married, and her deed may not pass title."⁴⁸ These cases were protective of husbands' interests in lands and were clear warnings to financial institutions.

Beyond the fact that women were involved in these transactions, the work of the Supreme Court was significant for the marketplace. The court warned the lender-plaintiffs to be more careful in drafting documents, securing a wife's signature, searching title, or prosecuting foreclosure in a timely manner. The court was making an overt effort to protect creditor expectations, preserve statutory procedures, and maintain the debtor's statutory recourse of redemption. The justices attempted to rationalize the legal system to these ends while according the legislature's statutory pronouncements appropriate deference. This laid the foundation for the extensive litigation that would follow in the period from 1866 to 1890.⁴⁹

Another area of English common law that the Supreme Court gave a great deal of attention to was real estate transactions. California case law involved the problems of getting land, developing land, and selling land. Land—particularly urban land—became a commodity to be traded. San Francisco real estate was a hot commodity in the 1850s. Los Angeles saw a similar period in the 1880s. The rapid completion of transactions often resulted in the legal formalities being overlooked or delayed, to the disappointment of one of the parties. Such cases ended up in court.

The cases of 1850 to 1865 reflected the hectic nature of the real estate market. In *Hoen v. Simmons* (1850), the buyer made an oral agreement to buy a lot in San Francisco for \$5,000 and paid \$1,000 down. The parties agreed to have a written contract drafted, but before the seller signed he went to Oregon, and the buyer proceeded to erect a building on the lot. When the seller returned, he refused to perform—that is, to carry out—the terms of sale, and the court refused specific performance (mandating that the seller convey in accordance with the contract) on a verbal agreement because the buyer had not "fully complied with the substance of all the provisions."⁵⁰ In *Tewksbury v. Laffan* (1850) the court told the buyer that absent a covenant to have the seller evict the squatters swarming over his San Francisco lot, he had the sole responsibility to do so.⁵¹ Another buyer, in *Salmon v. Hoffman* (1852), found that the court required complete performance regardless of title or other considerations. The facts told the tale. Henry Fisher was attorney-in-fact for the heirs of James Scott to sell 1,250-vara lots in San Francisco. (A vara is a Mexican land-grant measure equal



Stephen J. Field, nineteenth-century California's most distinguished judge, served in the state legislature before joining the state Supreme Court in 1857. In 1863, President Lincoln appointed him to the U.S. Supreme Court, where Field served an unprecedented thirty-four years. (He served concurrently as the chief justice of the Tenth Circuit Court of the United States, in Los Angeles.) Field (far left) sits with other U.S. Supreme Court jurists in this portrait, ca. 1870. *California Historical Society, FN-31541.*

to 32.9927 inches.) Francis Salmon, acting as attorney-in-fact for his sister Mary Catherine Salmon, went angling for the property and landed it for \$34,000, with \$1,000 paid to bind the deal as earnest money. Three weeks later, another \$9,000 changed hands, and Francis executed notes and mortgages. Five months later and one month before the next payment of \$12,000 was due, Francis asked Henry to obtain conveyances of the lots to a third party. The heirs, suspecting something fishy, tendered the conveyances on demand for the \$24,000 balance. Francis refused and sued. The court firmly stated that the heirs had acted properly and noted that "it is but a just precaution on his part, that he should withhold the title until the purchase-money is fully paid; and the law will not deprive him of the only security which he has."⁵² Simply put, the court stated that buyers had to fulfill the terms of their contracts before they could trawl for subsequent buyers.

A collateral problem for the financing of transactions was a money supply problem. Today the Federal Reserve System guarantees money supply and liquidity, banks transfer millions on computers, and people buy on plastic. In much of nineteenth-

Todd 1866



This photograph by J. A. Todd from the early 1880s depicts the scoured walls of the Malakoff Diggins in Nevada County, a seven-thousand-foot-long pit formed by water shot from hydraulic miners' cannons. Todd's photographs were used as evidence in the important federal case *Woodruff v. North Bloomfield Gravel Mining Co.*, which outlawed hydraulic mining in 1884, one of the government's first legal protections of the environment. *California Historical Society, FN-29935*.

century California and the West, the supply of money was scarce, and the exchange of promissory notes and other financial instruments was more a part of frontier trade. Cash flow, accounts receivable, and time lag on receipts and payments were daily problems for mercantile concerns. Promissory notes circulated as currency, and letters of credit and drafts on accounts were common throughout the period. When these credit or finance relations went sour, some disputes made their way to the California Supreme Court. The court promoted the negotiability of the promissory note and its utility in support of the marketplace.⁵³ The chronically specie-and-currency-starved West needed such instrumental jurisprudence.

The California Supreme Court in its first decade also disposed of a variety of tort claims. A tort is an injury outside of contract and today is characterized by personal injury cases. The early court was evenhanded in its treatment of corporations and persons under negligence doctrine and visited strict liability only on those in custody of animals known to be dangerous. The fault standard for negligence was part of the molding of law and societal behavior. Despite this approach to the developing law of tort, the court exhibited an independence that produced extraordinary decisions.⁵⁴

Moody v. McDonald (1854) was one such decision. The facts were simple. Blasting in a rock quarry had injured a woman. The law, too, seemed simple. People using extraordinarily dangerous instrumentalities were held to the standard of strict liability. Once cause in fact was established, the question was how much the tortfeasor was to pay. But that was not the court's analysis. It held that the plaintiff must establish the blaster's negligence. Further, the court allowed only actual damages, not punitive damages. Punitive damages, the court ruled, could be allowed only after the plaintiff had established actual malice.⁵⁵ The holding was significant. The court established a policy position recognizing that in a frontier context, dangerous enterprises, involving a high degree of risk to others, were clearly indispensable to the development of the new land. The court would not make enterprise the insurer of developmental activities.

Even more certainly, the Supreme Court favored enterprise where nuisance law was at issue. In *Middleton v. Franklin* (1853) the plaintiff sought an injunction to halt the operation of a steam boiler that the defendant had erected to run a gristmill in the basement of a building the plaintiff occupied. The noise and smoke alone seemed a nuisance, but the fact that steam boilers had exploded in the past gave the complaint some weight. The court, however, found that the boiler did not constitute a sufficiently probable threat to warrant an injunction. Even if it did, damages were the appropriate remedy, not the termination of the enterprise.⁵⁶ The court clearly favored entrepreneurs and insulated them via enterprise-liability jurisprudence.

The court also confronted tort cases generated by transportation enterprises. In cases of stagecoaches overturning, the court developed a presumption that the cause was the negligence of the coachman. But the presumption was rebuttable. Further, damages were limited to actual damages, thus providing a measure of enterprise protection. The court was willing to impute the negligence of an employee to the employer, setting the stage for fellow-servant developments in the latter part of the century. In a case involving the burning of a grain field caused by steamboat sparks, the court retained for its discretion the determination of the proper standard of care. In that particular case, the absence of catches on the steamboat's chimney constituted negligence. Although the cases were not extensive, the court did display a general attitude favoring enterprise.⁵⁷ The record here was mixed with some lost opportunities for judicial craftsmanship.⁵⁸

Two other legal ingredients of enterprise found in statutes in the period were chattel mortgages and mechanics' liens. In both areas of law, the court worked with flawed statutes. The chattel mortgage was a legal invention of the nineteenth century and a financing device for personal property. The legislature rejected such a law in 1850, but passed another in 1853. The legislature's Chattel Mortgage Act of 1857 listed the personal property that could be mortgaged, stated the required contents of the instrument, and provided for the document's recording. The list was long, but



Despite the uproar over gold, California's most contested natural resource has been its water supply. In the late nineteenth century, aggressive developers who attempted to divert water to industrial mines angered local residents, who responded with lawsuits and violence. This ditch-tender guards a section of the twenty-nine-mile-long, above-ground La Grande Ditch near Weaverville. *Photo by C. E. Goodyear, Courtesy Trinity County Historical Society.*

limited. For example, hotel furniture and upholstery could be mortgaged "when for purchase money," but billiard tables were not listed and hence not covered. A merchant who wrote a chattel mortgage on a billiard table as it went off the showroom floor did so without the protection of the statute. Much like in the mortgage cases, the court told creditors to heed the statute and write contracts accordingly.⁵⁹

Mechanics' liens differed from other credit devices. They were nonetheless important for the expansion of the economy. The mechanic's lien provided that persons covered thereunder could foreclose on properties they had worked on or provided materials to if not paid for their labor or goods. This was crucial to wage security and thereby gave entrepreneurs a line of credit for the building of California. In extensive case law, the court construed the statute strictly and provided plenty of advice to the legislature on how to accomplish its public policy goals. By the 1870s the court would view the statutes as remedial and pursuant to a workable policy.⁶⁰

In the period from 1850 to 1865, the institutions of justice and its officers worked diligently to provide for social and economic stability in California. Although the legislature and Supreme Court records on race were dismal, the development of law and the interaction of the bar and the courts, the legislators, and the people worked to establish a foundation that would enable California to emerge as a leader in private law and public policy.

NOTES

The section of this essay on the 1849 constitutional convention is taken in whole, or in part, from Gordon Morris Bakken, "California's Constitutional Conventions Create Our Courts," *California Supreme Court Historical Society Yearbook* (1994), 33-54.

1. Christian G. Fritz, "Popular Sovereignty, Vigilantism, and the Constitutional Right of Revolution," *Pacific Historical Review* 58 (February 1994): 39-66. Also see J. Ross Browne, *Report of the Debates in the Convention of California of the Formation of the State Constitution in September and October, 1849* (Washington, D.C., 1850), 50-51.

2. Fritz, "Popular Sovereignty," 45-46.

3. *Ibid.*, 46.

4. Gordon Morris Bakken, *Practicing Law in Frontier California* (Lincoln: University of Nebraska Press, 1991), 101.

5. Gordon Morris Bakken, "Death for Grand Larceny," in *Historic U.S. Court Cases, 1690-1990: An Encyclopedia*, ed. John W. Johnson (New York, 1992), 34-35.

6. *Ibid.*, 92-93.

7. *Ibid.*, 108.

8. *Ibid.*, 115.

9. *Ibid.*

10. *Ibid.*, 117.

11. *Ibid.*, 125.

12. *Ibid.*, 215.

13. Ibid., 226.
14. Ibid., 227.
15. Ibid., 228 (Noriego).
16. Ibid., 229.
17. Ibid., 231.
18. Ibid., 234.
19. Ibid.
20. Ibid., 235.
21. Ibid.
22. Ibid., 237.
23. Ibid., 239.
24. See Cardinal Goodwin, *The Establishment of State Government in California, 1846-1850* (New York: Macmillan, 1914); Lately Thomas, *Between Two Empires: The Life Story of California's First Senator, William McKendree Gwin* (Boston: Houghton Mifflin & Co., 1969); Walter Colton, *Land of Gold; or, Three Years in California* (New York: Cleaves, MacDonald & Co., 1850), 410-11; and Rockwell Dennis Hunt, *The Genesis of California's First Constitution* (Baltimore: Johns Hopkins Press, 1895). For the best comparative analysis of the politics of the 1849 convention, see David Alan Johnson, *Founding the Far West: California, Oregon, and Nevada, 1840-1890* (Berkeley: University of California Press, 1992), 15-40, 101-38, 233-68.
25. Gordon Morris Bakken, *Rocky Mountain Constitution Making, 1850-1912* (Westport, Conn.: Greenwood Press, 1987), 8-9.
26. See a short description of these events in Nathaniel Bennett, *Reports of Cases Determined in the Supreme Court of the State of California* (San Francisco: Bancroft-Whitney Co., 1906), vi-vii.
27. Orrin Kip McMurray, *Historical and Contemporary Review of the Bench and Bar of California* (San Francisco: The Recorder Printing and Publishing Co., 1926), 24.
28. Gordon M. Bakken, "Constitutional Convention Debates in the West: Racism, Religion, and Gender," *Western Legal History* 3 (Summer-Fall 1990): 228-39. On Jefferson and Jackson, see Rogers M. Smith, *Civic Ideals* (New Haven: Yale University Press, 1997), 138, 198-99, 206, 210-15.
29. Clifford E. Trafzer and Joel R. Hyer, "Exterminate Them": *Written Accounts of the Murder, Rape, and Slavery of Native Americans during the California Gold Rush, 1848-1868* (East Lansing: Michigan State University Press, 1999), 19-20.
30. Ibid., 81-133. It is indeed surprising that law-abiding pioneers on the Overland Trail would become willing instruments of holocaust. For the lawful pioneer behavior, see John Phillip Reid, *Policing the Elephant: Crime, Punishment, and Social Behavior on the Overland Trail* (San Marino, Calif.: The Huntington Library Press, 1997). I believe that Rogers M. Smith's version of American civic life is most informative. Some Jacksonian Americans were hard-core racists who, when given the opportunity, killed, brutalized, or marginalized racial minorities and women. On the gender issue, see Linda K. Kerber, *No Constitutional Right to be Ladies: Women and the Obligations of Citizenship* (New York: Hill and Wang, 1998), 47-67.
31. Albert S. Broussard, *Black San Francisco: The Struggle for Racial Equality in the West, 1900-1954* (Lawrence: University Press of Kansas, 1993), 17. The Criminal Proceedings Act of 1851 explicitly excluded Indian and "black" testimony. The California Supreme Court

would interpret the language of the statute to include Chinese testimony. Charles J. McClain, *In Search of Equality: The Chinese Struggle against Discrimination in Nineteenth-Century California* (Berkeley: University of California Press, 1994), 20–23. To make clear the depth of the racism of the California legislature, they codified the Supreme Court decision in 1863 and extended the ban for Chinese testimony to civil cases. *Act of March 18, 1863*, chapter 70, 1863 Cal. Stat. 69. The same statute repealed the ban on black testimony due to the Emancipation Proclamation. Also see Tomas Almaguer, *Racial Fault Lines: The Historical Origins of White Supremacy in California* (Berkeley: University of California Press, 1994).

32. McClain, *In Search of Equality*, 20–21.

33. Gerald F. Uelmen, "The Know Nothing Justices on the California Supreme Court" *Western Legal History* 2 (Winter–Spring 1989): 89–106.

34. Delores Nason McBroom, *Parallel Communities: African Americans in California's East Bay, 1850–1963* (New York: Garland Publishing, 1993), 20. Frank Ball, the publisher of *The Sluice Box*, a handwritten newspaper of Orleans, California, wrote on October 6, 1856, that "all three of the Presidential candidates are the greatest scoundrels that ever went unhung, and each sure to be elected." He was critical of the Democrats as "bullies and ballot-box stuffers, so long the tools with which the leaders of the Democracy worked to secure office. . . . [They] have rendered that party so obnoxious, that good citizens have withdrawn from it in disgust although still faithful to its principles." He castigated the Know Nothings as grafters and thieves of \$125,000 in a prison contract. Regarding Republicans, he thought them supportive of African American aspirations for office and in the pocket of the Pacific Railroad. *The Sluice Box*, MSS, Huntington Library.

35. Brown was a conspirator in the planned robbery of prominent citizen Jonathan Temple. See Horace Bell, *Reminiscences of a Ranger; or, Early Times in Southern California*, 2d ed. (Santa Barbara, Calif.: Wallace Hebbard, 1927), 236–37. He also had been charged with previous crimes. See *People v. Dave Brown and Charles Saville*, Court of Sessions, January 18, 1851, and *People v. Dave Brown*, January 24, 1852, Records in Los Angeles County Courts collection, Seaver Center for Western History Research, Natural History Museum of Los Angeles County. Paul R. Spitzzeri, "Trembling on the Brink: Criminal Justice Administration in Los Angeles County, 1850–1865" (unpublished paper, California State University, Fullerton 1999), 34–38. Also see Robert W. Blew, "Vigilantism in Los Angeles, 1835–1874," *Historical Society of Southern California Quarterly* 54 (Spring 1972): 11–30; Ronald C. Woolsey, *Migrants West: Toward the Southern California Frontier* (Sebastopol, Calif.: Grizzly Bear Publishing Co., 1996). For a unique inquiry into crime in San Francisco, see John Joseph Stanley, "Burning Baghdad by the Bay: Fire and Arson in Early California," in *Law in the Western United States*, ed. Gordon Morris Bakken (Norman: University of Oklahoma Press, 2000), 104–13.

36. Bakken, *Practicing Law in Frontier California*, 100. Hereinafter, unless otherwise noted, the text duplicates my prior work on pages 100–113.

37. The best work on Field is Paul Kens, *Justice Stephen Field: Shaping Liberty from the Gold Rush to the Gilded Age* (Lawrence: University Press of Kansas, 1997).

38. Bakken, *Practicing Law in Frontier California*, 2.

39. *Ibid.*, 19.

40. *Ibid.*, 34–36.

41. *Ibid.*, 37.

42. *Ibid.*, 4–5.

43. Donna C. Schuele, "Community Property Law and the Politics of Married Women's Rights in Nineteenth-Century California," *Western Legal History* 7 (Summer-Fall 1994): 249.
44. *Ibid.*, 249-50.
45. *Ibid.*, 259-60. Also see David J. Langum, *Law and Community on the Mexican California Frontier* (Norman: University of Oklahoma Press, 1987).
46. *Dentzel v. Waldie*, 30 Cal. 138, 144 (1866).
47. *Simpers and Craumer v. Sloan and Sloan*, 5 Cal. 457 (1855). Also see *Pfeiffer and Wife v. Riehn and Scannell*, 13 Cal. 643 (1859).
48. *Ramsdell v. Fuller and Summers*, 28 Cal. 37, 43 (1865).
49. See Gordon Morris Bakken, *The Development of Law in Frontier California: Civil Law and Society, 1850-1890* (Westport, Conn.: Greenwood Press, 1985), 41-72.
50. *Hoen v. Simmons*, 1 Cal. 119 (1850).
51. *Tewksbury v. Laffan*, 1 Cal. 129 (1850).
52. *Salmon v. Hoffman*, 2 Cal. 138, 143 (1852).
53. Gordon Morris Bakken, "Law and Legal Tender in California and the West," *Southern California Quarterly* 62 (Fall 1980): 239-59.
54. See Gordon Morris Bakken, "The Development of the Law of Tort in Frontier California, 1850-1890," *Southern California Quarterly* 60 (Winter 1978): 405-19.
55. *Ibid.*, 75.
56. *Ibid.*
57. *Ibid.*, 75-76.
58. The California Supreme Court gained national stature in the 1850s and 1860s due, in part, to its pioneering decisions in tort law. From the law of product liability to sovereign immunity, the court's decisional law led the nation. For example, in the 1854 blasting case, the court could have noted the special relationship of a woman and her home. Glenda Riley makes such a connection in *A Place to Grow: Women in the American West* (Arlington Heights, Ill.: Harlan Davidson, 1992), 65, 151. Also see Arien Mack, *A Place in the World* (New York: New York University Press, 1993), and Beatriz Colomina, *Sexuality and Space* (New York: Princeton Architectural Press, 1992). The final paper by Mark Wigley, "Untitled: The Housing of Gender," in the 1990 symposium reproduced in this book is particularly on point. Even if courts did not notice gendered space, it certainly is an important topic for historical inquiry.
59. Bakken, *Development of Law in Frontier California*, 92-93.
60. *Ibid.*, 93-101.

4

"We Feel the Want of Protection"

The Politics of Law and Race in California, 1848-1878

Shirley Ann Wilson Moore

California's history has been entangled in romanticized accounts of the daring Spanish conquest of savage but pliant Indians, of tradition-bound Californio stewards, and of hard-driving, entrepreneurial Yankee Argonauts.¹ These fictions were promulgated and abetted by influential early historians such as Hubert Howe Bancroft, who contended that California's passage from Spanish and Mexican rule to Anglo-American hegemony represented the triumph of superior racial, political, and cultural forces over the "descendants of the people of Montezuma."² This school also held that conquest and admission of California to the Union was the "Manifest Destiny" of white, Christian Americans.³ Bancroft, acknowledging that crimes and brutalities abounded in the European settlement of California, nevertheless concluded:

The idea of conquest in the American mind has never been associated with tyranny. On the contrary, such is the national trust in its own superiority and beneficence, that either as a government or as individuals we have believed ourselves bestowing a precious boon upon whomsoever we could confer in a brotherly spirit our institutions. And down to the present time the other nations of the earth have not been able to prove us far in the wrong in indulging this patriotic self-esteem.⁴

However, in the past two decades historians have begun to reassess California's history, probing the notions of inevitability, progress, race, gender, and politics to reveal a context far more complex, dynamic, and nuanced than was once believed.⁵ From the beginning, racial and ethnic conflict have been embedded in the matrix of California's development. The pre-statehood invasion of an army of Anglo-American and European immigrant entrepreneurs and gold seekers overwhelmed, supplanted, and eventually delegitimated Indians, Californios, African Americans, Asians, and

other people of color. The influx of white Americans gave rise to "Anglo" domination and established a society that severely marginalized California's other populations. The politics of race and law in California has been contextualized recently in what historian Quintard Taylor has called "multiracial [and] multiethnic" communities in which "Anglos" not only interacted with people of color, but people of color interacted with one another and with "Anglos in varied ways over the centuries and throughout the region." Moreover, Anglo sociopolitical domination displaced the earlier culturally and racially based hegemony of Spanish and Mexican political rule. In 1850, when California entered the Union as a free state, the nature and scope of freedom and equality continued to be hotly contested.⁶

"WHAT ARE YOU LOOKING FOR? LEAVE OUR COUNTRY!"

Decades before California became a state, race and ethnicity shaped the development of the region. The Spanish and Mexican colonists who inhabited California enjoyed vast landholdings, economic success, and autonomy that made the region prosperous. This prosperity would make the territory ripe for American exploitation and conquest, but even before the full-scale Yankee invasion, Spanish and Mexican settlers pursued a policy of exploitation, conversion, and subordination of Indian populations that eventually led to the decimation of indigenous peoples and the suppression of their traditional ways of life. Spanish missionaries, aided by military force, embarked on a campaign of religious conversion and colonization. Recalling the alarm that the presence of missionaries often inspired among indigenous peoples, mission-born, Franciscan-educated Pablo Tac noted that his people, the Quechnajuichom, initially attempted to bar the Franciscans from their southern California lands. When the foreigners approached, "the chief stood up . . . and met them," demanding, "what are you looking for? Leave our country!"⁷

The establishment of the mission system resulted in the foreigners' claiming native lands in the name of the church and compelling Indian "neophytes" to live and work in conditions that often were tantamount to slavery. Priests could and did administer floggings, maimings, imprisonment, and other tortures to recalcitrant Indians who resisted by fleeing, fighting back, or occasionally mounting open rebellions.⁸ As partial justification for this treatment, missionaries and other Spanish settlers differentiated themselves from the native population by identifying themselves as *gente de razon*, or "people who possessed reason." By contrast, they labeled Indians *gente sin razon*, or "people without reason." Such racial distinctions served to legitimize the settlers' sociopolitical system and to undermine indigenous structures.⁹

By the time of the gold discovery, Indians had paid a high price for missionization and interaction with whites. European diseases, from which they had little immunity,

had ravaged native populations. The policy of concentrating missionized Indians within the missions' adobe walls also contributed to the rising death rate by disrupting traditional sanitation practices, diets, and work habits. While mission Indians had varying experiences depending on the mission, their death rate after conversion was notable. For example, records from Mission Santa Cruz indicate that on average, converts survived eight and one-half years after conversion; at San Luis Obispo they survived seventeen. Infant mortality numbers were similarly dismal. More than half of mission-born Indians did not live beyond five years of age.¹⁰

At the beginning of Spanish settlement, the native population numbered approximately 300,000. By the end of the Spanish reign in 1821 the number had fallen to 200,000. At the time of gold discovery, nearly 150,000 native people resided in California. By the 1870s California's Indian population stood at approximately 30,000, an 80-percent decrease.¹¹ When the Mexican-American War erupted in 1846, both the Californios and the Indians would be overpowered by American and European foreigners.

"YANKEE DOMINATION IN ONE FORM OR ANOTHER"

The Mexican revolution that began in 1810 and eventually toppled Spanish colonial rule in 1822 thrust California into the economic and political mainstream of the Mexican colonial empire. In an effort to reduce the power of the church and free up land for loyal sons of the revolution, the Mexican government secularized the missions in 1834. In theory, secularization gave former Indian neophytes the right to claim a share of mission land (but not precolonial church landholdings) and emancipated them. In actuality, Indians were reduced to a system of land peonage, working on ranchos for food and shelter, voluntarily or through coercion. Franciscan missionary Narciso Duran noted that "all in reality are slaves." While the *gente de razon* continued to make invidious distinctions between themselves and Indians, the increasing presence of Americans and other white immigrants, merchants, traders, and entrepreneurs in California aroused new political tensions that manifested themselves racially and targeted not only the Indians, but also the Californios and their lifestyle.¹²

The American and European interlopers who flooded into California defined themselves in relationship to and against the Californios. Many of the newcomers evaluated Indians and Californios as undisciplined, profligate, and inferior. For example, in his widely read book of 1840, *Two Years before the Mast*, Richard Henry Dana, Jr., asserted that "In their domestic relations these people [Californios] are not better than in their public. The men are thriftless, proud, extravagant, and very much given to gaming." Alfred Robinson (a Yankee married to a Californiana) published in 1846 the influential *Life in California*, in which he declared that



The history of Indians in California has been marked by resistance, accommodation, and survival. The Yuma Indians, who had lived along the banks of the Colorado River for millennia, struck back at encroaching Spanish settlers in July 1781 by destroying two missions and killing thirty-four Spaniards and Mexicans, effectively closing the Anza Trail from Sonora to California for forty years. During the Gold Rush, travelers hired the Yuma to ferry them across the Colorado, angering local white entrepreneurs also in the ferry business, and violence broke out between the two groups. Finally, the U.S. Army, aware of the crossing's strategic location, established Fort Yuma (drawn here by lithographer George Baker) in 1850 to distribute supplies to military posts in Nevada, Arizona, Utah, New Mexico, and Texas. After the arrival of the Southern Pacific Railroad in 1877, the fort was fittingly turned over to the Yuma Indians. *California Historical Society, Templeton Crocker Collection, FN-02548.*

Californio men were "generally indolent, and addicted to many vices, caring little for the welfare of their children, who like themselves, grow up unworthy members of society." Such racial and cultural vilifications seemed to justify American annexationist ambitions toward Mexican California. Indeed, political tension, exacerbated by cultural conflict, erupted into the Mexican-American War in 1846. This conflict would topple the Californios and elevate the American invaders to authority in California.¹³

The United States declaration of war against Mexico threw American designs for California into stark relief. In his memoirs, José Maria Amador, the owner of a vast land grant in what is now Santa Clara and Alameda counties, expressed deep misgivings about the Bear Flag Revolt and the fate of his compatriots: "The bear flag and the presumptuous revolt it symbolized showed the Californios that independence would likely translate into Yankee domination in one form or another." Amador's



Mariano Guadalupe Vallejo, military governor of Alta California during Mexican rule, was a longtime supporter of U.S. annexation of the region. However, later in life he expressed regret that the change in government had brought "damage to the morale of the people, whose patriarchal customs have broken down little by little through contact with so many immoral persons who came to this, my country, from every nook and corner of the known world."

Courtesy California State Library.

forebodings were perceptive. During the course of the Mexican-American War, the American military occupied California, American squatters flooded into the area and American military forces eventually defeated the disorganized Mexican army. The signing of the Treaty of Guadalupe Hidalgo brought an end to the war in 1848, transferring one-third of Mexico's territory, including long-coveted Texas and California, to the United States.¹⁴

The provisions of the treaty guaranteed that any Mexican citizen in California who did not choose to retain allegiance to the Mexican government would, within a year, be automatically granted the "title and rights of citizens of the United States." It also guaranteed that Mexicans in California "shall be maintained and protected in the free enjoyment of their liberty and property." Articles 8 and 9 of the treaty proclaimed that "property of every kind . . . shall be inviolably respected." However, Congress, with an eye to American westward expansion, rejected the provision in Article 10 that stated, "all grants of land made by the Mexican government . . . shall be respected as valid." The deletion of this provision threw Californio land titles into chaos, paving the way for the federal Land Act of 1851, which opened Californio lands to litigation in American courts. As a result of fraud, manipulation, and indebtedness, nearly 40 percent of the land held by Californios before 1846 was transferred to American ownership. Thus, the legal system economically marginalized Mexicans, forcing them into dependency and wage labor, making the development of California's wealth exclusively an "American affair." Douglas Monroy has argued that the deterritorialization of Mexicans and their attempts to resist resulted in the "criminalization" of the Mexican population in California.

Similarly, Indians, lacking civil and property rights, suffered when the treaty was abrogated. Article 11 stated, "A great part of the territories which, by the present treaty, are to be comprehended for the future within the limits of the United States, is now occupied by savage tribes" for whom the United States government was responsible. The government, in moving and resettling their Indian "wards," denied their right to claim title to ancestral lands or land to which they had held title in the Mexican era. The protections outlined in the Treaty of Guadalupe Hidalgo proved hollow. The Gold Rush would accelerate these ethnocentric trends with the construction of a state constitution that gave legal sanction to discrimination.¹⁵

"THE ONE WILL RULE AND THE OTHER MUST SERVE"

Even with the ratification of the Treaty of Guadalupe Hidalgo, California remained under military rule, in what historian Malcolm J. Rohrbough has called a "political vacuum," with no permanent form of government forthcoming from a U.S. Congress that was locked in bitter debate over the fate of slavery in the new territories. In June

849, after Congress adjourned with still no agreement on the organization of California, "civil governor" General Bennet Riley called for a state constitutional convention. Forty-eight delegates (eight of whom were Californio), elected from various districts, convened in Monterey to forge a constitution to be submitted for congressional approval as a prerequisite for statehood. The convention delegates made it clear that the issue of race, compounded by notions of Manifest Destiny (or what Monroy has called "bonanza capitalism"), would restructure California's political system and redefine citizenship despite the Treaty of Guadalupe Hidalgo.¹⁶ Whiteness became the new criterion upon which citizenship in California now rested. The constitution being hammered out at the convention favored extending the franchise only to white males. Mexican Californians, guaranteed American citizenship under the treaty, however, had Indian ancestry, and many were dark-skinned. Thus, the primary task for the delegates was to determine just who was "white." Arriving at an awkward compromise on the issues of suffrage and citizenship, the delegates adopted an amendment that bestowed "whiteness" on Mexican Californians, giving the franchise to "every white male citizen of the United States, and every white male citizen of Mexico." A unanimously adopted proviso to this amendment left it to the discretion of the state legislature to extend the vote to Indians or their descendants—an unlikely possibility. Indeed, at the first meeting of the California legislature, the body quickly moved to restrict suffrage to white citizens exclusively.¹⁷

The convention was equally clear that African Americans were unwelcome in California. Sharing the traditional frontier aversion to competition from slave labor, the delegates quickly moved to bar slavery unanimously, but they had no desire for African Americans to reside in the territory regardless of status. The constitution's Declaration of Rights stated that "Neither slavery, nor involuntary servitude, unless for the punishment of crimes, shall ever be tolerated in the state." This section passed not on humanitarian grounds, but because the delegates feared that slavery would "degrade labor" and give slave owners an unfair advantage in the gold fields and other areas of the labor market. Like most of the convention delegates, former Louisiana resident and physician O. M. Wozencraft, a delegate from the San Joaquin district, virulently opposed any proposal to allow blacks to reside in California. Wozencraft argued that

there was just reason why slavery should not exist in this land, there is just reason why part of the family of man, who are so well adapted for servitude, should be excluded from amongst us. . . . We see the instinctive feeling of the negro [*sic*] is obedience to the white man. . . . If you wish that all mankind should be free, do not bring the two extremes in the scale of organization together; do not bring the lowest in contact with the highest, for be assured the one will rule and the other must serve.



Colton Hall in Monterey, photographed here in the late nineteenth century, housed the state constitutional convention in 1849. The forty-eight delegates included eight native-born Californios. *California Historical Society Collection at the University of Southern California: Title Insurance and Trust Photo Collection.*

The convention proposed a provision excluding all African Americans, regardless of status, from the state, but rejected it out of concern that Congress would find that it violated the federal constitution and thus jeopardized California's bid for statehood.¹⁸

SORDID CRIES OF "GOLD, GOLD, GOLD!"

With the Compromise of 1850, California entered the Union as a free state. However, the state's constitution and subsequent legislation so restricted the lives of African Americans and other people of color that freedom in the Golden State became a precarious proposition. Within the first decade of statehood, California had established what one historian described as an "appallingly extensive body of discriminatory laws" that marked people of color as inferior outsiders.¹⁹

The native populations in California experienced particularly harsh treatment under American rule, targeted by notions of Manifest Destiny, nativism, racism, and gold fever. Immigrants who streamed into California searching for gold encroached

on traditional Indian communities, breached treaties, and exploited Indian labor, resources, and goodwill. Indians were overwhelmed by sheer numbers and brutal policies.²⁰ Roger Daniels has argued that California Indians "fared even worse than did most native Americans." An examination of the "Act for the Government and Protection of Indians," passed by California lawmakers in April 1850, reveals that from the beginning, white Americans and other newcomers wanted to strip California native populations of all claims to land, citizenship, and autonomy. The act completed the process, begun in the Spanish and Mexican eras, of divesting Indians of sovereignty. Under the new law, white justices of the peace could adjudicate in "all cases by, for, or against Indians." The act permitted Indians to reside in traditional homes and villages," but, at the request of a "white person or proprietor," they could be removed to other land where they would remain until "otherwise provided for." Foreshadowing the restrictive work contracts, vagrancy laws, and black codes that would subjugate the freedmen and freedwomen in the post-Civil War South a decade and a half later, the new California law controlled Indian labor, permitting the indenture of Indian children and mandating that all Indians work. On the word of any white person, any Indian deemed to be "loitering or strolling about" could be arrested and sold to the highest bidder to labor for a period of four months. These drastic policies, the consistent abrogation of peace and land treaties by whites, and an ongoing "war of extermination" against many Indian tribes, led to the decline of the Indian population in the state. Indian resistance to white encroachment was not uncommon but was usually quashed by stronger white military force.²¹

Nativism and racism also converged in California's gold fields, as white Argonauts competed with people of color and foreigners of all nationalities for riches from the Mother Lode. As news of the discovery of gold (which had occurred nine days before the ratification of the Treaty of Guadalupe Hidalgo) flashed across the continent and around the world, a frenzied rush to the gold fields depleted the populations in almost every town in California. On May 29, 1848, the *San Francisco Californian* newspaper reported that "The whole country, from San Francisco to Los Angeles, from the sea shore to the base of the Sierra Nevadas, resounds with the sordid cry of gold, GOLD, GOLD! while the field is left half-planted, the house half-built, and everything neglected but the manufacture of shovels and pickaxes."²²

The world may have rushed in to California when gold was discovered, but racial and cultural egalitarianism, like most other amenities, were in short supply in the gold fields. In 1849 an estimated 85,000 miners lived and worked in the gold regions. Of this number some 23,000 were foreign-born, including immigrants from Europe, Australia, Asia, and Latin America. The census of 1850 shows 962 people of color residing in California, with African Americans making up most of this number, or about 1 percent (1,000) of the state's total population. Along with African American miners, Indians, Mexicans, and Chinese also worked the gold fields. About 15,000



Maria Paula Rosalia Vallejo Leese, ca. 1854, sister of statesman Mariano Guadalupe Vallejo and wife of American merchant Jacob P. Leese. During the Gold Rush, most Americans lumped together Californios like the Vallejos with Spanish-speaking immigrants from Mexico, Chile, and Peru and at one point required all to pay an oppressive foreign miners' tax. *California Historical Society, FN-25807.*



Painter and daguerreotype artist Solomon Nuñez Carvalho, who posed for this self-portrait in the late 1840s, was one of several thousand Jews from the United States and Europe who had emigrated to California by 1860. Born in South Carolina, Carvalho accompanied John C. Frémont on his fifth and final western expedition in 1853. After reaching Los Angeles, Carvalho established a photography studio and joined the local Jewish community in forming a Hebrew Benevolent Society. *Courtesy Library of Congress.*

Mexican miners, classed in the census as "white," concentrated in the southern mining region (Calaveras, Tuolumne, and Mariposa counties) of the state. Although the census of 1850 did not list Chinese as a separate group, and few Chinese arrived before 1852, immigration records indicate that the Chinese population in California increased rapidly after 1852 (from 10,000 in 1852 to almost 35,000 by 1860). A substantial number of Chinese miners, like gold-rushers of all backgrounds, were sojourners who intended to return to their homeland after striking it rich. All of the Argonauts came for economic opportunity and advancement.²³

Hostility from white, American-born miners toward foreign miners of all types was rampant, but people of color bore the brunt of xenophobia. Discrimination was codified into law when the California legislature of 1850 enacted a \$20 foreign miners' tax in response to complaints from white native-born American miners. The monthly tax was levied against all miners who were not U.S. citizens. Ostensibly the law, published only in English and Spanish, affected all foreign miners, but it especially targeted Mexican immigrants, and later also the Chinese, of whom 24,000, or two-thirds of the entire Chinese population in the United States, worked in the mines by the mid-1850s. In several mining regions, Chinese accounted for one-third of the foreign population there. The tax, and tax-related violence, drove thousands of people of color out of the gold fields. Many Chinese and Indians were forced to quit independent mining altogether. Mexican miners in Sonora, California, who refused to pay the tax were attacked by hundreds of armed whites. Nearly ten thousand of the fifteen thousand Mexican miners in the southern fields were forced to leave the region and return to Mexico in 1850. Ironically, some of the ousted Mexican miners were American citizens under the terms of the Treaty of Guadalupe Hidalgo. In 1850 the state Supreme Court upheld the law, ruling in *People v. Naglee* that the tax did not conflict with the California constitution, the Bill of Rights, or the Treaty of Guadalupe Hidalgo. Under pressure from local merchants, who saw their revenues sharply decline when their foreign clientele departed, the legislature repealed the tax in 1851, but then reinstated it as a \$3 monthly fee targeted especially at the Chinese.²⁴

"OUTRAGES, INJUSTICES, AND UNMITIGATED WRONGS"

Racist legislation and nativism were not restricted to the gold fields, however. African Americans and other people of color in California had to contend with discriminatory laws and policies in virtually every aspect of life. Although lawmakers had failed in their attempts to ban black entry to the state, California's legislators attempted to deter people of color by erecting a bulwark of laws that deprived them of civil rights and left them vulnerable to exploitation. Denied citizenship, they could not legally homestead public land; they were forbidden from voting, holding

public office, giving court testimony against whites, serving on juries, sending their children to public schools, and using public transportation.²⁵

Despite this barrage of discriminatory laws, for African Americans, slavery remained the most critical issue confronting them in the Golden State. Despite the state's constitutional prohibition against the institution, slavery was in fact practiced. Slaves were transported by citizens of other states to California before and after the discovery of gold. Some slaves accompanied their white masters as part of the household. Others were brought by gold-hungry slave owners to toil in the gold fields for their masters' benefit, with promises of manumission for faithful service. Between five hundred and six hundred slaves were actually used to work the gold sites, while others were hired out as laborers in non-mining-related work. Some were employed as personal servants and assistants to whites.²⁶

California's fugitive slave law dealt the most crushing blow to African Americans' aspirations for freedom and galvanized the black community, inspiring a vigorous abolitionist movement in the state. The Fugitive Slave Act of 1852 mandated the return of runaway slaves to their masters. That same year, the Perkins case became the first test of the law. The case involved three Mississippi slaves (Carter Perkins, Robert Perkins, and Sandy Jones) who were brought to California by their master, C. S. Perkins, in 1849 and left there ostensibly as free men when he returned to Mississippi that year. Upon the passage of the Fugitive Slave Act in 1852, C. S. Perkins issued an order for the arrest of his former slaves, seeing an opportunity to reclaim his human property under the provisions of the new law. When the former slaves took their case to court, the state Supreme Court dismissed their appeal and ordered that they be remanded to their owner in Mississippi. The court ruled that the residency of the former slaves in a free territory had no legal bearing on their condition of servitude under California's Fugitive Slave Act.²⁷

In another celebrated case, Georgia-born Bridget "Biddy" Mason, the slave of Mississippian Robert Smith, was part of a contingent of Mormon emigrants known as the "Mississippi Saints," who were initially bound for Utah in 1848. The Smith entourage eventually moved to San Bernardino in 1851 and later Los Angeles, where Mason and thirteen of her family members would be rescued in a daring raid by abolitionists. In 1856 Mason, aided by members of the free black community and anti-slavery whites in Los Angeles, successfully sued for her freedom and that of her family. Los Angeles District Court Judge Benjamin Hayes, an abolitionist sympathizer, ruled that "all of the said persons of color are entitled to their freedom and are free forever." Mason died in Los Angeles in 1891, respected in the community as an influential businesswoman, generous philanthropist, and prosperous property owner.²⁸

The Biddy Mason case involved the largest number of African Americans to successfully challenge California's Fugitive Slave Law. A year after the Mason decision, however, the United States Supreme Court's 1857 *Dred Scott* ruling cemented the



Although nominally a free state, California in the 1850s had only about 2,500 African American residents, who were denied the right to vote and to provide legal testimony against whites. The California Fugitive Slave Act, passed in 1852, meant that all blacks in the state lived under a perpetual threat of capture and enslavement. In 1851, abolitionist Mifflin Wistar Gibbs and other black leaders published California's first public call for equal rights for African Americans in the *Alta California*. "The announcement caused much comment and discussion among the dominant class," Gibbs noted. In fact, because of limited economic opportunities, many African Americans in California found themselves reliant upon that dominant class for employment, such as this governess, photographed by William Shew in the 1850s. *Courtesy The Society of California Pioneers.*

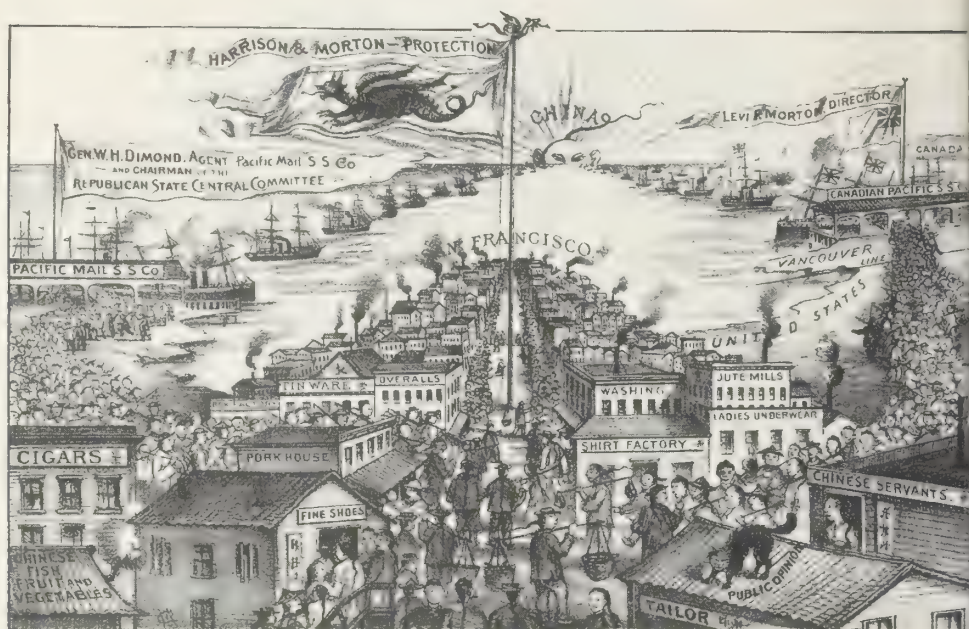
rights of slave owners to retrieve their property regardless of their residency in a free state. That same year, the Archy Lee incident, California's last fugitive slave case, underscored just how precarious life was for African Americans in the Golden State.

Archy Lee, an eighteen-year-old slave from Mississippi, had been brought to Sacramento in 1857 by Charles Stovall, the son of Lee's master. Stovall settled in Sacramento to teach school and hired Lee out for a number of years. Lee, claiming his freedom, ran away, but was arrested. The black and white abolitionist community rallied around him, providing legal aid. After a series of intricate legal maneuvers, the state Supreme Court held that the state's Fugitive Slave Law was valid if the slave owner was sojourning or only temporarily residing in the state. Despite Stovall's lengthy residency in California, the court ruled in his favor, noting that the white man's youth, poor health, and inexperience with the legal process should not be grounds for the forfeiture of his human property. As Stovall prepared to sail out of San Francisco with Lee, however, abolitionists blockaded the ship. Archy Lee won a reprieve while his supporters fought the extradition order in court. After weeks of legal wrangling, Lee was declared free.²⁹

Black Californians lived a perilous existence in the shadow of state and national fugitive slave laws. In March of 1858, the California legislature came close to passing a punitive antiblack immigration bill that would have required current black residents to carry registration papers and would have deported blacks who newly entered the state. Therefore, in the spring of 1858, when gold was discovered on the Fraser River, four hundred African Americans (almost 10 percent of the state's black population), began an exodus from California for Victoria, British Columbia, thereby placing themselves farther from the reach of fugitive slave laws. Archy Lee was among those who left.³⁰

Though not threatened with slavery, the Chinese experienced equally harsh and uncertain conditions in California. Whites, initially receptive to Chinese immigration as a means to secure cheap labor, quickly acted to curb it when marketplace competition and economic recessions affected white workers and made the Chinese convenient scapegoats. California lawmakers drew on an eighteenth-century federal law that said only "free white persons" could be naturalized. Thus, legislators introduced the short-lived "Act to discourage the Immigration to this state of persons who cannot become citizens thereof," a category into which virtually all Chinese fell. The act imposed a \$50 per head tax on all Chinese immigrants and attempted to place a \$4 monthly tax on Chinese fishermen. In 1862 San Francisco resident Ling Sing sued the San Francisco tax collector, refusing to comply with a \$2.50 capitation tax levied against the Chinese. In the *Ling Sing v. Washburn* decision, the state Supreme Court struck down the tax for being in violation of the constitution.³¹

Even though the court banned most of the anti-Chinese legislation, California legislators persisted in their attempts to forestall Chinese citizenship and residence



Chinese immigrants faced especially harsh discrimination in California because of the foreignness of their language, dress, and manner. Irish and African American laborers, themselves struggling to survive, provided some of the most strident opposition to Chinese immigration. This lithograph from the late 1860s reflects nativists' fears of being overrun by Chinese "hordes." *California Historical Society, FN-31535.*

in the state. The foreign miners' taxes, the ban on Chinese testimony in court, and the exclusion of Chinese children from the public school system were enacted in the 1850s and 1860s and remained on the books for several decades. In addition, local ordinances (such as San Francisco's infamous Cubic Air Ordinance) regulating boarding houses, sanitation, businesses, and vice were selectively applied and enforced in the Chinese community. Chinese residents and merchants such as the powerful Chinese Six Companies banded together to fight against these outrages, pooling their financial resources to hire white attorneys to challenge the discriminatory measures in court, often successfully, and choosing to fill up the jails rather than pay the fines. Historian Roger Daniels has noted that these acts of nonviolent resistance "foreshadow[ed] the Industrial Workers of the World free speech fights of the early twentieth century and the civil rights movements of the 1960s."³²

Anti-Chinese hostility reached the boiling point in the 1870s, when economic depressions wracked the country. Alexander Saxton has called the Chinese in California the labor movement's "indispensable enemy." As unemployment rose and labor conditions worsened, white workers in California increasingly blamed the Chinese. In 1877, the emergence of the virulently anti-Chinese Workingmen's Party



ven the California state prison system was not immune to anti-Asian prejudice. At Folsom Prison in Sacramento County, Chinese inmates—considered subhuman—were segregated into the separate, small building shown in this late nineteenth-century photograph. *Courtesy Folsom Prison Museum.*

San Francisco, led by Irish immigrant Denis Kearney, gave a political voice to unemployed white workers, many of them Irish immigrants. In "sandlot" meetings around the city, the Workingmen's Party denounced political corruption, corporate monopoly, and the Chinese. Kearney made the party's rallying cry "The Chinese Must Go!" When the state constitution was revised in 1879 the Workingmen's Party had garnered enough influence and support to have anti-Chinese provisions inserted into the document: Chinese were prohibited from working for private corporations and for public works, and "coolie" labor was restricted from entering the state. The anti-Chinese backlash that began in California culminated nationally when the United States Congress passed the Chinese Exclusion Act in 1882.³³

Equal access to the judicial process was another critical issue for California's minority populations, but here too the system established racial barriers that prevented people of color from achieving justice in court. Anti-testimony laws, which California legislators modeled on southern slave codes, had been established as early as 1850. These laws precluded the testimony of people of color in litigation dealing with whites. In 1852, the law stated that "no black or mulatto person, or indian [*sic*], shall

be permitted to give evidence in any action to which a white person is a party, in any Court of this State."³⁴

The 1852 murder of African American barber Gordon Chase by a white thief in San Francisco underscored the vulnerability of all people of color. In the Chase matter, critical testimony of an eyewitness was disallowed because an examination of his hair revealed him to be "one-sixteenth African." In 1854 the California Supreme Court (*People v. Hall*) overturned the conviction of another white murderer because a Chinese witness had been allowed to testify. Ruling that Chinese and Indians were of similar Asian origin and that the statutes barring Indian testimony also could be applied to Chinese, the court sought to protect whites from the "corrupting influence" of the testimony of "degraded and demoralized blacks from Africa, Indians from Patagonia, South Sea Islanders, Hawaiians, Chinese and other people of color." In 1857, Manuel Dominguez, a wealthy landowning Los Angeles County supervisor of Mexican and Indian descent, and a delegate to the constitutional convention of 1849, encountered this racial barrier when he took the stand to testify for the defendant in a San Francisco case and was dismissed when the plaintiff's attorney objected that Dominguez's "Indian blood" disqualified him.³⁵

In 1869, San Francisco businessman Fung Tang and other Chinese representatives met with a congressional delegation in San Francisco to demand relief from California's discriminatory laws. Tang told the delegation, "We are willing to pay taxes cheerfully, when taxed equally with others. . . . Most of all—we feel the want of protection to life and property when Courts of Justice refuse our testimony, and thus leave us defenseless, and unable to obtain justice for ourselves." California's anti-testimony law would stand until 1870, when the federal Civil Rights Act, passed to enforce the post-Civil War amendments to the U.S. Constitution, overturned it.

The complexity of California's multiracial political dynamic is apparent in the way people of color sometimes perceived one another and their bids for equality. This dynamic sometimes led people of color to press their demands for citizenship at the expense of other oppressed groups. In a letter to the African American newspaper *The Elevator*, San Franciscan S. P. Clanton chided the Democratic Party for "prejudic[ing] the minds of the people against the negro's [*sic*] claims for equal rights before the law, by classing us with Chinamen and Digger Indians." Another black correspondent to the newspaper insisted that "We are natives; our knowledge of the laws of government and customs of civilization are not doubtful—they are facts." Similarly, Lai Chun-Chuen, a spokesman for Chinese merchants in San Francisco, rebuked white Americans for treating them "the same as Indians and Negroes," because the Indians knew "nothing about the relations of society." He asked, "Can it be possible that we are classed as equals with this uncivilized race of men? . . . We doubt whether such be the decision of enlightened intelligence."³⁷

Equal access to California's public schools was another area in which people of



Racially integrated first- and second-graders at Lincoln School in Sacramento, ca. 1915, approximately twenty-five years after the state Supreme Court ended segregation in California's public schools. *Courtesy City of Sacramento, History and Science Division, Sacramento Archives and Museum Collection Center, P. Azevedo Collection.*

color suffered discrimination. It was apparent early that public education in California was headed down a segregated path. In 1855, the state superintendent of public instruction, Paul K. Hubbs, announced that "the education of all others, whether negro or mongol [*sic*] or Indian . . . must depend upon the benevolent care of our citizens or upon their own capacity to pay for it." Later that year, the state legislature changed the school code to guarantee that the state's education funds would be appropriated only "in proportion to the number of *white* children as shown by the census taken by the school marshals" (emphasis in the original). By 1858 the legislature enacted the first of several school segregation bills that prohibited "Negroes, Mongolians, and Indians" from attending public schools. With the introduction of the California School Law in 1870, California began separating children of "African or Indian" descent from whites when there were more than ten such children in the school. In a deliberate attempt to discourage Chinese from remaining in the state, and despite petitions from the Chinese community and supportive white clergy, the law was silent about the status of Chinese children. Thus, after 1870, most minority children in California attended publicly supported, legally segregated schools, which were chronically underfunded and suffered from substandard maintenance, inconsistent faculty, and hostility from the white community.³⁸

African American parents fought against the legal proscriptions that kept their children from school, filing suits to test the law's constitutionality. In 1871, African Americans pressured the legislature to introduce two bills that would outlaw segregation in the public schools, but they could not muster enough support to pass them. In 1874, A. J. Ward brought suit to enroll his daughter Mary Frances in a San Francisco public grammar school when the segregated school in her district closed. Ward argued that the state's educational policies and those of the local district violated the Fourteenth and Fifteenth Amendments to the U.S. Constitution and the federal Civil Rights Act of 1866. The state Supreme Court rejected the suit, but the landmark *Ward v. Flood* case had chipped away at some of the legal foundation for school segregation. The legislature eventually amended the school code to allow African American children to attend white schools where no black school was available. However, black parents still had to file suits against school districts to force them to comply with the law. In 1880, the legislature finally abolished school segregation, but five years later it amended the code to establish separate schools for "children of Mongoloid or Chinese descent." Not until 1929 did California officially abolish all segregation in the public school system, but remnants of it persisted into post-World War II years.³⁹

All these events underscored the political and socioeconomic dilemma of people of color in California. African Americans addressed these problems through concerted action. In 1852, black San Franciscans formed the Franchise League and unsuccessfully petitioned the state legislature for full civil rights. However, the year 1855 signaled a more aggressive approach on the part of the black community when forty-nine male delegates from ten of California's twenty-seven counties met at St. Andrews AME Church in Sacramento to establish the first Convention of Colored Citizens of the State of California.⁴⁰

Convention delegates were well aware of the convention's historic significance and were equally convinced that the estimated \$2.4 million net worth of the black community in California amply qualified them for the undertaking. Moreover, the California convention movement was part of the national struggle for abolition and black civil rights. A number of convention participants, such as Jeremiah B. Sander-son, Peter Lester, Frederick Barbadoes, David W. Ruggles, and Mifflin Wistar Gibbs, had been leading abolitionists in their home states before migrating to California in the early 1850s. Behind the scenes, San Francisco businesswoman and ardent abolitionist Mary Ellen Pleasant made generous financial contributions to the convention movement.⁴¹ Sacramentan James Carter rallied support for the first convention, declaring:

Brethern:—Your state and condition in California is one of social and political degradation . . . Since you have . . . migrated to the shores of the Pacific, with the hopes of bettering your condition, you have met with one continued series of outrages, injustices,

and unmitigated wrongs unparalleled in the history of nations. . . . [W]e call upon you to lay aside your various avocations and assemble yourselves together . . . for the purpose of devising the most judicious and effectual ways and means to obtain inalienable rights and privileges in California.⁴²

The first convention in 1855 gave its highest priority to anti-testimony laws. The colored convention movement mounted a series of impressive petition campaigns demanding the elimination of racial restrictions on testimony and voting. Convention delegates authorized the "State Executive Committee," which was the "political arm of the Colored Convention movement," to oversee a statewide anti-testimony petition campaign directed at the legislature. The convention voted to raise \$20,000 to finance the operation. Subsequent conventions in 1856, 1857, and 1865 targeted public school segregation, provided legal defense for runaway slaves who were captured under the state's Fugitive Slave Law, and challenged Jim Crow segregation in public conveyances. In 1856, Mifflin Wistar Gibbs's *Mirror of the Times*, California's first black newspaper, was adopted by the convention as "the State Organ of the colored people of California," to disseminate information about their cause and serve as an advocate in the public arena.⁴³

The rise of the convention movement in California coincided with the increasing political, sectional, and racial tensions that led to the Civil War. Prior to the Civil War, people of color in California, despite their efforts, found it virtually impossible to gain consideration from a state legislature that was controlled by pro-southern, "Chivalry," Democrats. As early as 1851 the Chivs, led by Senator William Gwin, a former Mississippian, dominated state politics. Proslavery Democrats had unsuccessfully attempted to divide California and open the southern half of the state to slavery. Chiv forces attempted to ban blacks from the state, proposed enslaving all blacks who had entered the state before 1850, thwarted every attempt to overturn racially proscriptive legislation, supported laws that discriminated against Chinese immigrants and workers, and voted for legislation that reduced Indians to a state of land peonage. These political conditions held little promise for harmonious race relations in California. For example, the colored convention movement continued its fight for abolition, suffrage, testimony, and education, but the continued domination of pro-southern political forces caused the third convention in 1857 to be "convened in an atmosphere of discouragement." Bleak future prospects led delegates to seriously consider emigration to Canada or Mexico. Indeed, within a year, Mifflin Wistar Gibbs and some four to six hundred African Americans left California to settle in Canada.⁴⁴

African Americans had won a number of whites to their cause, but not until the early 1860s and the defeat of the pro-southern forces did things begin to improve. The Civil War and Reconstruction years brought intensified efforts and mixed results for

people of color in California. For example, African Americans increased their challenges to laws that excluded them from public conveyances and accommodations. In 1863, William Bowen filed a civil suit in San Francisco District Court and won \$10,000 after being ejected from a streetcar in North Beach. Charlotte Brown, another black San Franciscan, had filed a similar suit two months earlier that resulted in a jury award of five cents, the cost of the streetcar fare. Mary Ellen Pleasant filed suit against the North Beach and Mission Railroad Company in 1866, when she and another black woman were ejected from a streetcar, but her victory was reversed on appeal by the state Supreme Court in 1868. While none of these challenges ended segregation in public transportation, they helped undermine the legal foundation on which the laws rested. Finally, in 1893 all racial barriers were legally removed when California legislators enacted an equal public accommodations law.⁴⁵

With the election of the antislavery Republican Abraham Lincoln to the presidency in 1860 and the advent of a more tolerant administration led by Republican governor Leland Stanford in 1861, African Americans began to experience some relief. For example, in March 1863, two months after Lincoln's Emancipation Proclamation went into effect, San Francisco state senator Richard F. Perkins successfully introduced a bill that repealed the ban against black testimony. The mood of the Colored Convention in 1865 was more optimistic, given the sweeping changes brought about by the Civil War. Delegates pressed their demands for suffrage and education, linking their cause to the rise of the "copper-colored nations of China and Japan." They urged blacks to take advantage of western homestead laws and called for the employment of forty thousand freedmen on the construction of the transcontinental railroad that was to terminate in Sacramento. In a show of "international solidarity," African American delegates passed a resolution that pledged aid and support to anyone struggling to "free themselves from bondage, whether it is personal servitude or political disfranchisement." They specifically noted the struggle of the Poles and Hungarians with Russia and pledged support for the Irish fight for independence from Britain.⁴⁶

Despite Reconstruction optimism, however, racial advancements were uneven. The Republican regime and the Democrats who resumed control of state government after the Civil War continued anti-Chinese agitation. Governor Stanford's inaugural address denounced the presence of the Chinese in California and called for "any constitutional action, having for its object the repression of the immigration of Asiatic races." The 1863 Perkins Bill legalized black court testimony, but it continued the prohibition against Indians, and it specifically barred "Mongolians" and Chinese from testifying. On the other hand, the Chinese community gained some benefit from Reconstruction-era legislation that aided the freed people. They received federal protections under the Fourteenth Amendment (ratified in 1868), which prohibited states from depriving anyone of due process and equal legal



This cartoon from the November 27, 1869, issue of *Harper's Weekly* mocked the opportunities enjoyed by Irish Americans in California. "Ah, Mike, me boy, you're just in time to Vote," the prosperous man tells the newly arrived Irishman. "Come away with me and get Naturalized. Yer may be an Alderman soon yerself, if yer like." Numerous Californians of Irish descent did rise to positions of political and economic power during the nineteenth century, including Governor John G. Downey, Workingmen's Party president Denis Kearney, U.S. senator James D. Phelan, labor leader Frank Roney, and *Sacramento Bee* editor James McClatchy. *Courtesy California State Library.*

protection. Similarly, the Civil Rights Act of 1870 forbade racial discrimination in the courts and banned the imposition of taxes on any specific immigrant group. In addition, the Burlingame Treaty, which had become federal law in 1868, allowed for free immigration from China. In 1872, California, bowing to federal laws, finally removed all racial bans on testimony. In 1880, the legislature struck down all laws providing for separate schools for blacks; a decade later the state Supreme Court upheld the ruling. Chinese children would be excluded from public schools until the 1920s. The federal Chinese Exclusion Act of 1882, however, would not be repealed until 1943.⁴⁷ Many of these post-1860s victories had been achieved through activism by California's people of color, especially African Americans and Chinese, via litigation, lobbying, and publicly exposing inequities.

While post-Civil War legislation provided people of color in California with the beginnings of legal relief, their daily reality revealed that de facto and de jure segregation and discrimination would continue to make them vulnerable to violence and exploitation. African Americans, Asian Americans, Mexican Americans, and Native Americans of the nineteenth century conducted their struggles in an environment where politics had long been conditioned by race and ethnicity. They would be compelled to carry their fight into the twentieth century, when succeeding generations would devise new strategies to overcome both old obstacles and new ones.

NOTES

1. For discussion of the romanticized history of California, see Douglas Monroy, "The Creation and Re-creation of Californio Society," in *Contested Eden: California before the Gold Rush*, ed. Ramón A. Gutiérrez and Richard J. Orsi (Berkeley: University of California Press, 1998), 175-76; and Patricia Nelson Limerick, *The Legacy of Conquest: The Unbroken Past of the American West* (New York: W. W. Norton, 1987), 254-57. Also see Lisbeth Haas, *Conquests and Historical Identities in California, 1769-1936* (Berkeley: University of California Press, 1995), 13-44, 171-74; and Leonard Pitt, *The Decline of the Californios: A Social History of the Spanish-Speaking Californians, 1846-1890* (1966; reprint, Berkeley: University of California Press, 1998), xiii.

2. See Hubert Howe Bancroft, *History of California*, vol. 6, 1848-1859 (1888; reprint, Santa Barbara, Calif.: Wallace Hebbard, 1970), 251-57. People of Montezuma quote from Bancroft, "Personal Observations during a Tour through the Line of Missions of Upper California," in Haas, *Conquests and Historical Identities in California*, 172. In her 1914 history of the state, California novelist Gertrude Atherton proclaimed that "California's historic period began very late. When New England was burning witches on the green . . . this vast and lovely tract . . . was peopled by a few Indian tribes, so stupid that they rarely learned one another's language, so lethargic that they rarely fought. The squaws did what work was done; the bucks basked in the sun for eight months in the year, and during the brief winter sweated out their always negligible energies in the *temescals* [sweat lodges]." Gertrude Atherton, *California* (New York: Harper and Brothers, 1914), 15.

3. For a discussion of the role that the concept of Manifest Destiny played in Anglo-American conquest and hegemony in California, see Monroy, "Creation and Re-creation of Californio Society," 174-76, and Albert L. Hurtado, *Indian Survival on the California Frontier* (New Haven: Yale University Press, 1988), 72-85.

4. Bancroft, *History of California*, vol. 6, 256.

5. Some recent, groundbreaking, and provocative scholarship in this field includes: Limerick, *Legacy of Conquest*; Hurtado, *Indian Survival on the California Frontier*; Haas, *Conquests and Historical Identities in California*; Douglas Monroy, *Thrown among Strangers: The Making of Mexican Culture in Frontier California* (Berkeley: University of California Press, 1990); Quintard Taylor, *In Search of the Racial Frontier: African Americans in the American West, 1528-1990* (New York: W. W. Norton, 1998); Albert Broussard, *African-American Odyssey: The Stewarts, 1853-1963* (Lawrence: University Press of Kansas, 1998); Sucheng Chan, *Asian Americans: An Interpretive History* (Boston: Twayne Publishers, 1991); Sucheng Chan, Douglas Henry Daniels, Mario T. Garcia, and Terry P. Wilson, eds., *Peoples of Color in the American West* (Lexington, Mass.: D. C. Heath, 1994); Elizabeth Jameson and Susan Armitage, eds., *Writing the Range: Race, Class, and Culture in the Women's West* (Norman: University of Oklahoma Press, 1997); Gutiérrez and Orsi, *Contested Eden*; Malcolm J. Rohrbough, *Days of Gold: The California Gold Rush and the American Nation* (Berkeley: University of California Press, 1997). For groundbreaking older scholarship on California, see also Robert F. Heizer and Alan F. Almquist, *The Other Californians: Prejudice and Discrimination under Spain, Mexico, and the United States to 1920* (Berkeley: University of California Press, 1971), and Pitt, *Decline of the Californios*.

6. Taylor, *In Search of the Racial Frontier*, 18-19; Pitt, *Decline of the Californios*, 14-15, 309; Monroy, *Thrown among Strangers*, 174-75. Pitt notes that the term "Anglo" was "unknown in nineteenth-century California." I use the term here aware of its limitations. Strictly speaking it is not interchangeable with the term "white." The European Americans (another imprecise description) who flooded into California after the war with Mexico brought with them a diversity of ethnic, national, and religious heritages. Those of English or "Anglo" descent comprised only some of the white newcomers to California.

7. For a brief discussion of first contact and Pablo Tac, see James A. Sandos, "Between Crucifix and Lance: Indian-White Relations in California, 1769-1848," in Gutiérrez and Orsi, *Contested Eden*, 196-98. Pablo Tac quote from Haas, *Conquests and Historical Identities in California*, 15-16.

8. Limerick, *Legacy of Conquest*, 256-57; Haas, *Conquests and Historical Identities in California*, 26-29; Hurtado, *Indian Survival on the California Frontier*, 23-26; Heizer and Almquist, *The Other Californians*, 4-10; James J. Rawls and Walton Bean, *California: An Interpretive History*, 6th ed. (New York: McGraw-Hill, 1993), 34-39; Sandos, "Between Crucifix and Lance," 204-205.

9. For discussion of *gente de razon* and *gente sin razon*, see Haas, *Conquests and Historical Identity in California*, 2, 13-44; Hurtado, *Indian Survival on the California Frontier*, 23. For a discussion of indigenous sociopolitical systems and the impact of the mission system on them, see Haas, *Conquests and Historical Identity in California*, 16-18, and Sandos, "Between Crucifix and Lance," 206-207. See also Bruce W. Miller, "Chumash Village Life and Social Organization," in Chan et al., *Peoples of Color in the American West*, 221-23.

10. For a discussion of diseases and the death rates of converts, see Rawls and Bean, *California: An Interpretive History*, 38. See also Hurtado, *Indian Survival on the California*

Frontier, 197-98. For a thorough but succinct account of mission life for Indians, see Monroy, *Thrown among Strangers*, 51-80.

11. Population figures in Hurtado, *Indian Survival on the California Frontier*, 1.

12. Heizer and Almqvist, *The Other Californians*, 17-22; Hurtado, *Indian Survival on the California Frontier*, 123-29 (Narciso Duran quote, 127); Monroy, "Creation and Re-creation of Californio Society," 186-88, 191; Haas, *Conquests and Historical Identities in California*, 32-37; Monroy, *Thrown among Strangers*, 163-65.

13. Monroy, *Thrown among Strangers*, 165-69; Pitt, *Decline of the Californios*, 15-18; Richard Henry Dana, Jr., *Two Years before the Mast*, quoted in Monroy, *Thrown among Strangers*, 166; Alfred Robinson, *Life in California*, quoted in Pitt, *Decline of the Californios*, 15.

14. Rawls and Bean, *California: An Interpretive History*, 69-80. For a brief description of José María Amador, see Monroy, "Creation and Re-creation of Californio Society," 186. For the Amador quote from his memoirs and a discussion of the designs of American Manifest Destiny in California, see Monroy, *Thrown among Strangers*, 173-80. See also Hurtado, *Indian Survival on the California Frontier*, 72-85. For a discussion of occupied California, see Rawls and Bean, *California: An Interpretive History*, 96-97.

15. Almqvist and Heizer, *The Other Californians*, 96-100. For Article 9 of the Treaty of Guadalupe Hidalgo and Californio land losses, see Monroy, *Thrown among Strangers*, 204; see 205-18 for a discussion of the "criminalization" of Mexicans. Articles 8, 9, 10, and 11 of the Treaty of Guadalupe Hidalgo are quoted in Haas, *Conquests and Historical Identities in California*, 56-58.

16. Rohrbough, *Days of Gold*, 10; Heizer and Almqvist, *The Other Californians*, 92; Rick Moss, "Not Quite Paradise: The Development of the African American Community in Los Angeles through 1950," *California History* 75 (Fall 1996): 25-26; also see 96-102. For a discussion of "bonanza capitalism," see Monroy, *Thrown among Strangers*, 199-201.

17. Rawls and Bean, *California: An Interpretive History*, 97, 99; Heizer and Almqvist, *The Other Californians*, 97, 116-17, also especially 105, for discussion of "degrading labor," and 115, for discussion on barring nonwhites from voting. For an intriguing discussion of the notion of "whiteness" in California, see Haas, *Conquests and Historical Identities*, 168-74. For an insightful examination of the political and social implications of the notion of "whiteness" in antebellum America, see Walter Johnson, "The Slave Trader, the White Slave, and the Politics of Racial Determination in the 1850s," in *The Journal of American History* 87 (June 2000): 13-38.

18. Heizer and Almqvist, *The Other Californians*, 94 (Declaration of Rights quote), 96, 105-106 (Wozencraft quote), 115-19; Kenneth G. Goode, *California's Black Pioneers: A Brief Historical Survey* (Santa Barbara, Calif.: McNally and Loftin Publishers, 1973), 44-54. For attempts to bar slaves from the gold fields, see also Odell A. Thurman, *The Negro in California before 1890* (M.A. thesis, College of the Pacific, 1945; reprint, San Francisco: R and E Research Associates, 1973), 29-32; Larry George Murphy, "Equality before the Law: The Struggle of Nineteenth-Century Black Californians for Social and Political Justice" (Ph.D. diss., Graduate Theological Union, Berkeley, 1973), 35-45; James Adolphus Fisher, "A History of the Political and Social Development of the Black Community in California, 1850-1950" (Ph.D. diss., State University of New York, Stony Brook, 1971), 14-19.

19. Quote from Malcolm Edwards, "The War of Complexional Distinction: Blacks in Gold Rush California and British Columbia," *California Historical Quarterly* 56 (Spring

1977): 36. See also Rudolph M. Lapp, *Blacks in Gold Rush California* (New Haven: Yale University Press, 1977), 191-93; Moss, "Not Quite Paradise," 225; Goode, *California's Black Pioneers*, 75; Thurman, *Negro in California*, 44; Jack D. Forbes, *Afro-Americans in the Far West: A Handbook for Educators* (Berkeley: Far West Laboratory for Educational Research and Development, 1969), 23-24; Taylor, *In Search of the Racial Frontier*, 81-82; Susan Bragg, "Knowledge Is Power: Sacramento Blacks and the Public Schools, 1854-1860," *California History* 75 (Fall 1996): 215-21.

20. Hurtado, *Indian Survival on the California Frontier*, 104-24.

21. Roger Daniels, *Asian America: Chinese and Japanese in the United States since 1850* (Seattle: University of Washington Press, 1988), 34; Hurtado, *Indian Survival on the California Frontier*, 129-36, 140-48. See also Heizer and Almquist, *The Other Californians*, 76-90, for discussion of treaties, Modoc Wars, and Indian reservations.

22. *San Francisco Californian*, May 29, 1848, quoted in Rawls and Bean, *California: An Interpretive History*, 85.

23. For a vivid, albeit ethnocentric, description of the international character of the California Gold Rush, see Bancroft, *History of California*, vol. 6, 221-25. For an equally vivid but more balanced description, see Rohrbough, *Days of Gold*, 220-29. For 1850 census figures, see Lapp, *Blacks in Gold Rush California*, 49. Lapp notes that the 1850 census included Sandwich Islanders, or "Kanakas," in this figure, as well as blacks from Latin America, chiefly Mexico and Chile. For Chinese population figures, see Allyn Campbell Loosley, "Foreign Born Population of California, 1848-1920" (master's thesis, University of California, Berkeley, 1927; reprint, San Francisco: R and E Research Associates, 1971), 2, 4, 7, 33; Elmer Clarence Sandmeyer, *The Anti-Chinese Movement in California* (1939; Urbana: University of Illinois Press, 1991), 12-13 (in 1973 edition). For the population of the gold fields, see Heizer and Almquist, *The Other Californians*, 120-21, 144; and Liza Ketchum, *The Gold Rush* (New York: Little, Brown and Company, 1996), 96.

24. Heizer and Almquist, *The Other Californians*, 121, 141-45. For population figures on Chinese miners, also see Ronald Takaki, *Strangers from a Different Shore: A History of Asian Americans* (Boston: Little, Brown, 1989), 82; Carlos U. Lopez, "The Chilenos in the California Gold Rush," *The Californians* 6 (March-April 1988): 29, 32-33; Ketchum, *Gold Rush*, 96; Martin Ridge, "Disorder, Crime, and Punishment in the California Gold Rush," *Montana, the Magazine of Western History* (Autumn 1999): 20-22; Rawls and Bean, *California: An Interpretive History*, 120-21, 126; Rohrbough, *Days of Gold*, 28.

25. Goode, *California's Black Pioneers*, 75; Thurman, *Negro in California*, 44. For a discussion of the black fight for education in California, see Bragg, "Knowledge Is Power," 215-21.

26. Thurman, *Negro in California*, 25; Rohrbough, *Days of Gold*, 211-15; Lapp, *Blacks in Gold Rush California*, 21-22, 64-65, 75; Murphy, "Equality before the Law," 35-45; Fisher, "The Political Development of the Black Community," 14-19.

27. Almquist and Heizer, *The Other Californians*, 122-23.

28. Rawls and Bean, *California: An Interpretive History*, 132-33; Taylor, *In Search of the Racial Frontier*, 72 (Judge Hayes quoted on 78, 79-80, 90); Lapp, *Blacks in Gold Rush California*, 120-21; Judith Freeman, "Commemorating an L.A. Pioneer," *Angeles*, April 1990, 58-60; Goode, *California's Black Pioneers*, 90-91.

29. Lapp, *Blacks in Gold Rush California*, 147-52; Heizer and Almquist, *The Other Californians*, 121-28.

30. Lapp, *Blacks in Gold Rush California*, 239-54; Heizer and Almquist, *The Other Cali-*

fornians, 160-77. See also Herbert Patrick LePore, "Exclusion by Prejudice: Anti-Japanese Discrimination in California and the Immigration Act of 1924" (Ph.D. diss., Brigham Young University, 1973), 14-28.

31. Takaki, *Strangers from a Different Shore*, 80-82, 113; Rawls and Bean, *California: An Interpretive History*, 126-27; Sandmeyer, *Anti-Chinese Movement in California*, 40-56; LePore, "Exclusion by Prejudice," 23-24.

32. Takaki, *Strangers from a Different Shore*, 82, 113; Rawls and Bean, *An Interpretive History*, 126-27; Sandmeyer, *Anti-Chinese Movement in California*, 40-56; LePore, "Exclusion by Prejudice," 23-24; Daniels, *Asian America*, 33-39. Daniels discusses some of the most egregious local ordinances, such as San Francisco's Cubic Air Ordinance, which required each tenement to have at least five hundred cubic feet of air for each inhabitant, and the Laundry Ordinance, which imposed a fee calculated by the number of delivery horses used by the laundry. The highest fee of \$15 was levied against laundries that made no deliveries and thus used no horses—as was the case for most Chinese laundries.

33. Saxton is quoted in Russell M. Posner, "The Lord and the Drayman: James Bryce vs. Denis Kearney," in *Neither Separate nor Equal: Race and Racism in California*, ed. Roger Olmstead and Charles Wollenberg (San Francisco: California Historical Society, 1971), 57-58-59; Takaki, *Strangers from a Different Shore*, 115-16.

34. Daniels, *Asian America*, 34; the 1852 law is quoted in David L. Snyder, *Negro Civil Rights in California: 1850* (Sacramento: Sacramento Book Collectors Club, 1969), 1. See also Heizer and Almquist, *The Other Californians*, 47.

35. Goode, *California's Black Pioneers*, 77; Almquist and Heizer, *The Other Californians*, 128-33; Daniels, *Asian America*, 34-35.

36. Takaki, *Strangers from a Different Shore*, 114.

37. *The Elevator*, November 1, 1867, August 16, 1867; Lai Chun-Chuen, "Remarks of the Chinese Merchants of San Francisco," in Takaki, *Strangers from a Different Shore*, 112-13.

38. Paul K. Hubbs is quoted in Bragg, "Knowledge Is Power," 215-16; Almquist and Heizer, *The Other Californians*, 133-34, 175-76; Sandmeyer, *Anti-Chinese Movement in California*, 50. The 1858 school segregation act is quoted in Daniels, *Asian America*, 36; see also Taylor, *In Search of the Racial Frontier*, 215-16.

39. Heizer and Almquist, *The Other Californians*, 134, 176; Goode, *California's Black Pioneers*, 84-85; Clarence Caesar, "The Historical Demographics of Sacramento's Black Community, 1848-1900," *California History* 75 (Fall 1996): 206; Sandmeyer, *Anti-Chinese Movement in California*, 50.

40. Goode, *California's Black Pioneers*, 74-75; Forbes, *Afro-Americans in the Far West*, 28; Caesar, "Historical Demographics of Sacramento's Black Community," 202; Taylor, *In Search of the Racial Frontier*, 90-92; Rawls and Bean, *California: An Interpretive History*, 132.

41. Taylor, *In Search of the Racial Frontier*, 91; Caesar, "Historical Demographics of Sacramento's Black Community," 202, 204.

42. James Carter is quoted in Thurman, *Negro in California*, 43-44.

43. Caesar, "Historic Demographics of Sacramento's Black Community," 202; Forbes, *Afro-Americans in the Far West*, 28; Taylor, *In Search of the Racial Frontier*, 91-94; Lapp, *Blacks in Gold Rush California*, 91, 203, 209.

44. Goode, *California's Black Pioneers*, 77; Forbes, *Afro-Americans in the Far West*, 27-28; Heizer and Almquist, *The Other Californians*, 76-85, 124-26, 134-37; Hurtado, *Indian Survival on the California Frontier*, 198.

45. Taylor, *In Search of the Racial Frontier*, 93, see esp. 331, note 27; Goode, *California's Black Pioneers*, 87-88; William Loren Katz, *The Black West: A Pictorial History* (Seattle: Open Hand Publishing, 1987), 139; Susheel Bibbs, "Chautauqua Enactment of the Life of Mary Ellen Pleasant," unpublished time line and biographical sketch. Fisher, "Political Development of the Black Community," 39.

46. Caesar, "Historical Demographics of Sacramento's Black Community," 209; Rawls and Bean, *An Interpretive History*, 177; Takaki, *Strangers from a Different Shore*, 114; Taylor, *In Search of the Racial Frontier*, 94.

47. Stanford is quoted in Daniels, *Asian America*, 36; Caesar, "Historical Demographics of Sacramento's Black Community," 209; Rawls and Bean, *An Interpretive History*, 177; Takaki, *Strangers from a Different Shore*, 114; Fisher, "Political Development of the Black Community in California," 39.

5

Capturing California

Joshua Paddison

Late in the evening of May 3, 1851, as San Francisco was once again easing from boisterous Saturday night to quiescent Sunday morning, a fire started somewhere among the hotels, gambling houses, and saloons of its crowded downtown plaza. The flames spread quickly through the city, licking at canvas and devouring wood. The first major blaze in more than seven months, it caught even the fire-hardened residents of gold-rush San Francisco by surprise. A twenty-nine-year-old German visitor named Heinrich Schliemann, many years before archeological discoveries in Troy would propel him to international fame, outran the fire from his plaza hotel to the top of Telegraph Hill, where he watched the city burn. "It was a frightful but sublime view, in fact the grandest spectacle I ever enjoyed," he wrote later. "[T]he whole beautiful city was burned down. The roaring of the storm, the cracking of the gunpowder, the cracking of the falling stonewalls, the cries of the people and the wonderful spectacle of an immense city burning in [the] dark all joined to make this catastrophe awful in the extreme."¹ The fire raged all night and into the morning, traveling from block to block by way of wooden sidewalks and sewers. "The insatiable flames came roaring and rushing onward, darting its thousand-forked tongues of fire far up into the midnight sky," reported witness Mrs. D. B. Bates.² Eighteen city blocks, including more than fifteen hundred buildings, were destroyed; dozens of people died, some trapped in "fireproof" brick houses, others crushed by falling debris.³

For survivors (as well as for subsequent historians), the temptation to view San Francisco's many fires as metaphors has been strong. William Taylor, a Methodist minister from Virginia who spent seven years proselytizing the sailors, miners, and prostitutes who thronged San Francisco in the early 1850s, saw the holocaust of May 3-4, 1851, as a physical representation of California's spiritual corruption. The

city still smoldering around him, Taylor preached from the porch of his adobe church to about one thousand tired, soot-covered listeners. He condemned the gambling, drinking, adultery, swearing, and Sabbath-breaking he routinely observed in the frontier port, warning, "Let the citizens of San Francisco beware! God is dealing with them. This disaster, dreadful as it appears to be, is but a premonition of judgment to come, in consequence for their sins." He called the fire a "disciplinary measure for the correction and improvement of our morals," caused by "the gas of carnal enmity against God, manifesting itself in so many horrid forms in our midst."⁴

William Taylor's sermon was more than hellfire-and-brimstone theatrics; it reflected his palpable disappointment in San Francisco, unleashed by the night's devastation. As Kevin Starr has pointed out, eastern ministers such as Taylor saw California as a "city on a hill," a possible spiritual utopia to guide the rest of the wayward world.⁵ Just as the state's mountains "burst" with gold and its fields with agricultural bounty, Protestant missionaries envisioned a flowering of Christianity in California that might well spread to Latin America and Asia. "Let Christians, therefore, everywhere pray for the conversion of California," wrote Taylor, for "very soon we will control the whole empire of darkness, and, under the banner of the cross, will march to the conquest of the world."⁶

Taylor's talk of "conquest" is echoed by the popular nineteenth-century lithograph *Allegorical View of the Conquest of the Continent* (plate 1), based on John Gast's 1872 painting *American Progress*. Widely distributed by western travel writer and promoter George Crofutt, the lithograph glorifies the inexorable advance of European-American culture and technology across the continent. Clearly, ministers were not the only ones to look hopefully toward California. Ever since the earliest descriptions of California had trickled east from the pens of such travelers as Richard Henry Dana, Jr., and John C. Frémont, Americans had dreamt of the region's agricultural possibilities and coveted its furs, hides, and other natural resources.⁷ The discovery of gold in January 1848 only fulfilled expectations. In California—land-rich, full of gold, pregnant with promise—a young nation saw itself. In the words of Walt Whitman, California was "the true America."⁸

Yet gold-rush California satisfied few of those dreamers. Gold proved to be not only scarce but physically and mentally punishing to extract. Ministers, lawyers, merchants, and other members of the middle and upper classes complained unmitigatingly of California's social unruliness, its lawlessness, its multiethnic tumult. "We know of no country in which there is so much corruption, villainy, outlawry, intemperance, licentiousness, and every variety of crime, folly and meanness," lamented southern writer Hinton Helper after three years in California. "Words fail to express the shameful depravity and unexampled turpitude of California society."⁹ From their perspective, elite and bourgeois Californians struggled to erect the foundations of order and decorum in a horrifying sea of vice and crime. For William

Taylor, fire stood as a symbol of California's disorder; for others, the symbol was Joaquín Murieta (plate 2), a most likely mythical Mexican bandit who purportedly terrorized Anglo mining camps. Murieta, representing criminality as well as California's thousands of nonwhite residents, was hunted down and beheaded by Harry Love—or so the story goes.¹⁰

A tension between order and chaos ran through gold-rush society. Clergymen, businessmen, and entrepreneurs spoke of the need to "tame" wild California—to pacify its itinerant working classes, to subdue its nonwhite groups, to establish recognizable governmental and financial systems. One such institution was the mail. By the end of 1849, the U.S. Post Office Department had established branches in San Francisco, Monterey, San Diego, and other ports, while private companies carried mail to the mining camps of the Sierra Nevada.¹¹ However, artist H. F. Cox's lithograph of the San Francisco post office (plate 3), ca. 1852, illustrates how quickly mayhem threatened to engulf order during the Gold Rush: queues splinter, men jostle, fights break out. In his book *Eldorado; or, Adventures in the Path of Empire*, Bostonian journalist Bayard Taylor recorded a near-riot outside the office on Halloween night in 1849, as thousands waited for the mail to be sorted:

Every avenue of entrance was barricaded; the crowd was told through the keyhole that the Office would be opened that day to no one: but it all availed nothing. Mr. Moore's Irish servant could not go for a bucket of water without being surrounded and in danger of being held captive. . . . Towards evening [on November 1] the impatience of the crowd increased to a most annoying pitch. They knocked; they tried shouts and then whispers and then shouts again; they implored and threatened by turns; and not seldom offered large bribes for the delivery of their letters.¹²

The vagrant, desperate, overwhelmingly male character of gold-rush California society produced a level of bedlam odious to its reform-minded middle and upper classes.

By the 1860s, however, those reformers had largely succeeded in their efforts to restrain turbulent California. The depletion of easily harvested placer gold had stemmed the tide of fortune seekers and forced most transient Forty-niners to return home or find steadier work in California's growing cities. Immigration continued, but the institutions of "civilized" society were now firmly in place. Schools, public libraries, and churches, with Sunday schools, women's groups, and benevolent societies, dotted the landscape. The emergence of stable banks encouraged commerce and industry while the economy boomed once again from the discovery of silver in the nearby Comstock Lode in 1859. Agriculture and cattle ranching consumed millions of acres of once uncultivated land, and manufacturers, speculators, and merchants looked forward to the arrival of the transcontinental railroad (completed in 1869).¹³ In bustling San Francisco, the state's commercial center, impressive financial and governmental institutions stood alongside other symbols of American urban life,

ncluding a high school, about twenty-five elementary schools, two orphanages, a branch of the YMCA, a women's relief society, and no less than eighty-nine benevolent organizations.¹⁴ California missionary Timothy Dwight Hunt, a Presbyterian who had lived through the frustrating gold-rush years, happily reported to the general convention of the American Home Missionary Society in the late 1850s: "I have come from the frontier, and were I asked, 'Watchman, what of the night?' I would at once reply: 'The morning cometh.'"¹⁵

The establishment and growth of government was the single greatest component of California's transformation from pioneer outpost to industrialized, urbanized, thoroughly American state in the decades following the Gold Rush. Local and state governments, operating with federal sanction, regulated California society, gave it organization, law, and hierarchy. In its myriad forms, American government brought order to California—but not without costs.

From the perspective of California's native peoples, the arrival and expansion of American government meant subjugation and elimination. The state's Indian population, estimated at more than 300,000 before Spanish contact, fell to about 30,000 by 1870. The overwhelming majority died from disease or starvation, but thousands were murdered by white militia groups financed by local, state, and federal governments.¹⁶ The Spanish-speaking Californios, heirs of the first conquerors of California, also suffered financial hardship and discrimination under American rule. The Land Act of 1851 created a special commission to adjudicate land disputes, which heard more than eight hundred cases in the mid-1850s. The average case lasted a whopping seventeen years (including appeals), by which time many once-proud Californio families were bankrupt from attorneys' fees.¹⁷ The Peralta family (plate 4) won legal title to their vast lands in the East Bay but ended up losing all but seven hundred of their original forty-nine thousand acres to speculators, squatters, and lawyers. In southern California, Andrés Pico was elected a state assemblyman in the American regime but lived humbly in ramshackle ex-Mission San Fernando, supported by friends and family members. Bavarian amateur artist Edward Vischer titled his 1865 portrait of Pico *A Californian Magnate in His Home* (plate 5), reflecting a worldly reputation the former don strove to maintain despite his financial hardships. One visitor recorded that Pico was eternally "smiling and bowing and saying in his broken English 'I am de gentleman always'—and such we always found him to be."¹⁸

Andrés Pico had been one of eight Californios invited to the state constitutional convention of September 1849, a year before California joined the Union. From the perspective of today, the constitution the delegates hammered out is a curious document, a product of committee to be sure, containing both progressive and conservative elements. The document required "all laws, decrees, regulations, and provisions" to be published in both Spanish and English, gave married women the right to own property in their own names, and outlawed slavery (more because of the

protestations of miners that slaves were unfair labor competition than because of the delegates' abolitionist sentiments). On the other hand, while acknowledging that "all political power is inherent in the people," the constitution denied suffrage to women, American Indians, African Americans, Asian Americans, "idiots," "insane persons," and individuals convicted of "any infamous crime." The delegates actually passed a provision outlawing free blacks from entering the state, but later decided to exclude it in fear of violating federal law and thereby delaying admission to the Union. The delegates' hastily written, paradoxical constitution undergirded state government in California for thirty years.¹⁹ The conventioners also adopted a state seal (plate 6), featuring the Roman goddess Minerva (who had been born fully formed from the head of Jupiter) in the hopes that California would likewise escape a lengthy territorial infancy.

Political winds buffeted the seat of California state government from place to place in the early 1850s. After stints in Monterey, San Jose, Vallejo, and Benicia, the capital settled permanently in Sacramento in 1854. Two years later, the legislature created the Board of State Capitol Commissioners, charged with designing and constructing an elegant capitol building befitting the burgeoning state.²⁰ Their choice for superintending architect, Reuben Clark, expressed his vision for the "neo-federalist" capitol in an idyllic watercolor (plate 7), complete with genteel passers-by, trotting horses, and a high-stepping dog. However, a chronic lack of funds and two devastating floods delayed construction for years, driving Clark to a mental breakdown and, in 1866, death. Finally completed in 1874, the capitol was widely admired for its imposing Roman Corinthian architecture, stately lawns, and well-kept gardens. "The white dome of the State Capitol rises like a pale planet above the green surges and waving banners of semi-tropic luxuriance," enthused one observer in 1878.²¹ A half century later, when a fruit company adopted the capitol for its logo (plate 8), the edifice still reverberated as a symbol of California greatness.

The U.S. federal government had a hand in California affairs as early as 1837, when President Andrew Jackson offered to buy a large portion of the state from Mexico for \$3.5 million. Federal troops provided the region's only official government from the outbreak of the Mexican War in May 1846 until California joined the United States in September 1850. Thereafter, the U.S. military remained a constant presence in California's culture and economy. Taking stock of the state's strategic location on the Pacific and its abundant natural resources, the federal government constructed dozens of bases, depots, training centers, and prisons in California. To help protect San Francisco Bay, in 1853 the U.S. Army imported granite from China to build a fortress on forbidding Alcatraz Island, eventually equipping it with more than one hundred cannon. In 1854, the government erected on Alcatraz the Pacific Coast's first lighthouse, visible in painter Joseph Whittle's vivid *San Francisco Bay with Alcatraz and Steamship Princess* (plate 9). The island fortress—called by one



Plate 1. George Crofutt, lithographer,
*Allegorical View of the Conquest of the
 Continent*, 1873, from John Gast, *American
 Progress*, 1872. Color lithograph, 12 x 16 in.
 California Historical Society.



Plate 2.
 Unidentified artist,
*Mexican Bandit Joaquín
 Murieta*, undated. Oil on
 canvas mounted on board,
 36 x 18¾ in. Courtesy
 Bancroft Library.



Plate 3. H. F. Cox, *Post Office, San Francisco, California*, ca. 1852. Color lithograph, $16\frac{2}{5} \times 23\frac{2}{5}$ in. Courtesy California State Library.



Plate 4. Unidentified photographer, *Members of the Peralta Family, Oakland, California*, ca. 1856. Hand-tinted half-plate ambrotype. Courtesy Peter E. Palmquist.



Plate 5. Edward Vischer, *A Californian Magnate in His Home*, 1865. Watercolor on paper, $3\frac{3}{4} \times 8\frac{1}{4}$ in. Courtesy Bancroft Library.



Plate 6.
The Great Seal of the State of California, California State Capitol, Sacramento. Stained glass. *California Historical Society*.



STATE CAPITOL OF CALIFORNIA:

*Reuben Clark
Architect & Superintendent*

Plate 7. Reuben Clark, *State Capitol of California*, ca. 1860. Watercolor on paper, 14¾ × 19⅜ in. Courtesy California State Archives.



Plate 8. Unidentified artist, Capital Pak fruit label, ca. 1930s. Print on paper. Courtesy California State Library.



Plate 9. Joseph Whittle, *San Francisco Bay with Alcatraz and Steamship Princess*, ca. 1860. Oil on canvas, 14 × 20 in. Courtesy Bancroft Library.



Plate 10. George Holbrook Baker, lithographer, *Military of San Francisco*, ca. 1870. Color lithograph, 17¼ × 22½ in. California Historical Society, FN-32058.

Plate 11.
Nathaniel Currier,
lithographer, *Grand
National Republican
Banner*, 1856. Hand-
colored lithograph,
14¾ × 11 in. Courtesy
Bancroft Library.



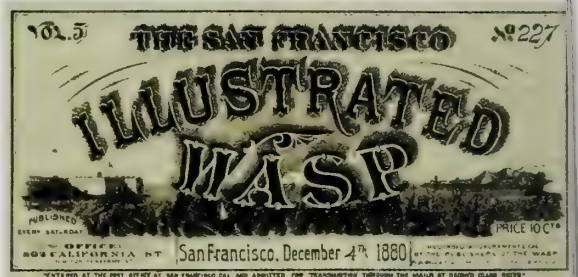
Plate 12. William Hahn, *Sacramento Railroad Station*, 1874. Oil on canvas mounted on board, 53¾ × 87¾ in. Courtesy The Fine Arts Museums of San Francisco, gift of the M. H. de Young Endowment Fund.



Plate 13.
 Theodore Wores, *New Year's Day in San Francisco's Chinatown*, 1881.
 Oil on canvas, 29 × 22 in.
 Courtesy Dr. A. Jess Shenson.



Plate 14. William Hahn, *Yosemite Valley from Glacier Point*, 1874. Oil on canvas, 27¼ × 46¼ in. California Historical Society, gift of Albert M. Bender.



THE SACRAMENTO RIVER IN THE FUTURE.

Plate 15.
Edward Keller, *The Sacramento River in the Future*, from *The San Francisco Illustrated Wasp*, December 4, 1880. Print on paper. Courtesy City of Sacramento, History and Science Division, Sacramento Archives and Museum Collection Center.

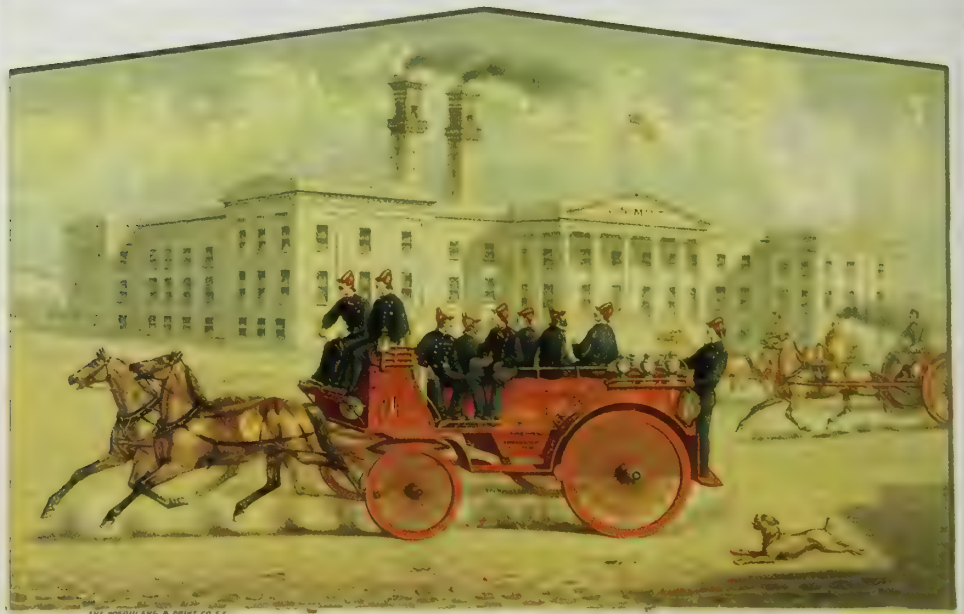


Plate 16. Bosqui Engraving & Print Company, *Untitled* (Horse-drawn fire engines passing in front of San Francisco Mint), ca. 1880s. Color lithograph, 13¼ × 20⅞ in. California Historical Society, FN-32061.



The state capitol in Sacramento, photographed here ca. 1865 during construction, cost almost two and a half million dollars and took fourteen years to build (1860–1874). Gordon P. Cummings, superintending architect for eight of those years, called it “the most perfect combination of stone, iron, brick, and mortar I have ever seen and seems intended to last all time and ages.” *Courtesy California State Library.*

onlooker “a Siberia, surrounded by water”—became the Department of the Pacific’s military prison in 1860.²² In succeeding decades, Alcatraz was also used to incarcerate civilians, including Indians involved in land disputes and supporters of the Confederacy during the Civil War.²³ Shortly thereafter, lithographer George Holbrook Baker attempted to cash in on postwar patriotism with his *Military of San Francisco* (plate 10), depicting in glorious color the exploits of selected local heroes.

Federal politics likewise influenced the course of California affairs. The state’s admission to the Union was delayed for months until a new balance between free and slave states could be reached. National political parties transplanted themselves to California with varying degrees of success. Six of California’s first seven governors were Democrats; the lone exception was nativist Know-Nothing John Neely Johnson, elected in 1855. The Whigs, on the other hand, never managed to elect a governor or senator. The Republican Party, which emerged in the mid-1850s, actually

chose a California man for its first presidential nominee in 1856—"Pathfinder" John Charles Frémont, whose reports of western expeditions had thrilled eastern readers in the 1840s. A larger-than-life figure in California lore, he had helped instigate the Bear Flag Revolt of 1846, accepted Mexico's surrender at Cahuenga in 1847, and served as the state's first U.S. senator. He lost the presidency to Democrat James Buchanan in 1856 but carried most of the north. Frémont wore a beard during the campaign, as illustrated by the lithograph *Grand National Republican Banner* (plate 11), perhaps to help remind voters of his role in exploring, conquering, and redeeming the American West.²⁴

The completion of the transcontinental railroad in 1869 ended California's isolation and further helped bring it into the mainstream of American society. An astonishing feat of engineering, the Central Pacific's daring path through the Sierra Nevada would not have been possible without extensive financial support from federal, state, and county governments. The federal Pacific Railroad Acts of 1862 and 1864 provided the Central Pacific with nearly \$28 million in loans and more than 11 million acres of valuable public western lands touched by the railroad. Leland Stanford, one of the Central Pacific's Big Four, was elected governor in 1861, the first Republican to hold the office, and he used his influence to add state and county subsidies to the federal money. The power of Stanford and the other members of the Big Four would only grow after the completion of the railroad in 1869, such that their aggressive control of transportation, agriculture, commerce, and politics would spawn the railroad's vitriolic nickname "the Octopus." However, the railroad did bring undeniable opportunities to many California cities. *Sacramento Railroad Station* (plate 12) by William Hahn, one of the most popular California painters of his era, is a romanticized depiction of the railroad's effect on the state capital, hub of the Central Pacific and home of the Big Four until the early 1870s. Travelers both aristocratic and shabby debark while, in the background, the cosmopolitan city pulses with economic activity. British traveler J. G. Player-Frowd observed in 1872 that the arrival of the railroad "changed the nature of the city. It is no longer the depot for the northern mines. No more heavily laden teams block up the streets. The train drops the goods at every station as it passes over the line, and the storekeeper of the interior now sends his orders direct to Chicago or San Francisco." He added, "The arrival and departure of trains creates a certain bustle."²⁵

Although Leland Stanford himself harbored adamant anti-immigration convictions, his Central Pacific was built on the backs of its more than ten thousand Chinese workers. White railroad engineers working along the San Joaquin River in 1873 told travel writer Charles Nordhoff that "Chinese make, on the whole, the best road-builders in the world" because they "learn all parts of the work very quickly" and "do not drink, fight, or strike."²⁶ In the 1870s, Chinese workers' willingness to accept low wages and dangerous working conditions exacerbated already formidable

anti-Asiatic sentiments in California. Dozens of "anti-coolie clubs" formed around the state, paralleled by the rise of the xenophobic Workingmen's Party in local and state politics. City, state, and federal laws reflected the anti-Chinese excitation. San Francisco, for example, passed an ordinance aimed at Chinatown's crowded tenements requiring at least five hundred cubic feet of air per inhabitant. The new state constitution of 1879 forbade any corporation or government agency from employing "any Chinese or Mongolian" and gave the legislature the authority to protect California from "the burdens and evils arising from the presence of aliens who are or may become vagrants, paupers, mendicants, criminals, or invalids afflicted with contagious or infectious diseases." The federal Congress in turn passed the Exclusion Act in 1882 prohibiting immigration from China.²⁷ Theodore Wores's *New Year's Day in San Francisco's Chinatown* (plate 13), painted at the height of nativist fervor in California, offered a surprisingly sympathetic portrayal of a people vilified by labor leaders and politicians alike.

Like anti-Chinese crusaders, environmental conservationists and preservationists successfully turned to the power of the federal and state governments to further their causes. In 1864, the U.S. Congress designated resplendent Yosemite Valley a protected park (the first such federal designation in American history) and turned its administration over to the state of California. William Hahn's famous *Yosemite Valley from Glacier Point* (plate 14), one of hundreds of late-nineteenth-century Yosemite paintings and photographs, suggests the possibility of a harmonious balance between tourism and preservation (although the discarded wine bottles in the lower left corner imply that a more conscientious stewardship was required).²⁸ In 1884, the federal judiciary came to the aid of environmentalists in the form of the groundbreaking case *Woodruff v. North Bloomfield Gravel Mining Co.*, which effectively ended hydraulic mining in California. Critics of hydraulicking had for years decried its destructive impact on the gold country and on Sacramento Valley farmland inundated by mining debris. In the pages of *The San Francisco Illustrated Wasp* in December 1880, bombastic cartoonist Edward Keller offered an extreme vision (plate 15) of what hydraulic mining would eventually bring—a Sacramento River clogged with "tailings." Looking on the bright side, *The Wasp* noted, "There would be good 'prospecting' in the bed of the Sacramento, should it ever be uncovered."²⁹ Previously, state laws had unabashedly encouraged exploitation of California's mineral resources; *Woodruff v. North Bloomfield* was a landmark decision precisely because it offered a new model of environmental policy through governmental regulation.

The rise and expansion of government in California during the decades after the Gold Rush represented one aspect of middle- and upper-class reformers and entrepreneurs' efforts to "tame" the frontier state. Not surprisingly, the benefits of government were not evenly spread across the strata of California society—those with access to the corridors of power profited more than those without. Other

groups—especially Indians, Californios, and Chinese—actively suffered. Some advantages of order were undeniable, however. One reason the terrible fire of May 3–4, 1851, had burned so much of San Francisco was the city's lack of an organized fire department. Volunteer groups existed but were scattered throughout the city; furthermore, San Francisco had only four cisterns with which to extinguish fires. In the years following the May 1851 blaze, the city government constructed sixty cisterns and tightly organized the city's network of volunteer firefighters.³⁰ Thirty years later, San Francisco boasted an efficient, professional fire department, bolstered by privately funded fire patrols such as the Underwriters, which was jointly sponsored by more than ninety insurance companies and the subject of a rousing lithograph (plate 16) issued by the San Francisco-based Bosqui Engraving & Print Company.³¹ Of course, fire came again to San Francisco in 1906, just as California's moral and racial unruliness was never completely suppressed by reformers and indeed persists today. Captured by missionaries, businessmen, and artists alike, California continues to inspire utopian dreams of all kinds and to reflect the best and worst aspects of human nature.

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4. William Taylor, *Seven Years Street Preaching in San Francisco, California* (New York: Carlton & Porter, 1856), 114.
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16. James J. Rawls, *Indians of California: The Changing Image* (Norman: University of Oklahoma Press, 1984), 171-86. See also Sherburne F. Cook, *The Population of the California Indians, 1769-1970* (Berkeley: University of California Press, 1976); Albert L. Hurtado, *Indian Survival on the California Frontier* (New Haven: Yale University Press, 1988); and Ramón A. Gutiérrez and Richard J. Orsi, eds., *Contested Eden: California before the Gold Rush* (Berkeley: University of California Press, 1998).

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6

'Officialdom'

California State Government, 1849-1879

Judson A. Grenier

An overview of California government in the three decades between the first and second constitutional conventions reveals clear patterns of change. At the outset (including the first two legislative sessions), government was creative and generally responsible; relationships between the branches were relatively harmonious. However, as the decade of the 1850s progressed, the legislative and executive branches increasingly were caught up in the partisan bickering that accompanied the rise of political parties and rancor over the spoils of office. The period of the Civil War was a clear watershed for government, as the founding fathers were ushered out and a new breed of official emerged, ready to use the mechanisms of state to encourage the growth of industry, corporations, and large-scale agriculture. Excesses in all of these areas created a political backlash in the 1870s, as the voting public came to view jobholders and especially legislators as captives of special interests, thus fomenting the disillusionment with government that led to the second constitutional convention. Yet during all of these years, serving as a state officer often meant relinquishing a more lucrative career. Given the acquisitive culture of the time, California probably was fortunate that most of its officials were responsible men.¹

In the state's first election, on November 13, 1849, although the state had not yet been admitted to the Union and its government was extralegal, voters approved the new constitution, elected Peter H. Burnett governor and John McDougal lieutenant governor, and chose the members of the legislature and congressional representatives. The other state officers were chosen by the legislature after it convened in San Jose, the first state capital, on December 17, 1849. On December 20, Governor Burnett took the oath of office, and that afternoon the legislature in joint session elected United States senators. Two days later they met in convention to cast ballots for state treasurer, controller, attorney general, surveyor general, and three

justices of the state Supreme Court, and to approve the governor's nominee for secretary of state. (Future holders of these offices would be elected by the public.) During the following month, legislative committees defined the duties of the executive officers. By the end of January 1850, the structure of California government was in place.²

The basic elements of state government, with some additions, remained stable throughout the subsequent thirty years, and even thereafter, for the constitutional convention of 1878-79 did little to alter the structure, except for the judicial branch. In spite of the radical rhetoric of some of the members, most delegates at the second convention, according to Carl Swisher, "looked on them as matters which were settled." What follows may be considered the state's "officialdom":

LEGISLATURE: The bicameral body consisted of a Senate and an Assembly, elected by district throughout the state for two- and one-year terms, respectively. At first, the legislature met annually for about four months (early January to the end of April). These sessions put the capital in the public spotlight, as the press dispatched correspondents to cover debates over new legislation. However, the sessions easily were the greatest drain on the annual state budget, for legislators received travel and per diem pay that were excessive in comparison with that paid in other states. In part to reduce expenses, in 1862 voters approved amendments to the state constitution that established biennial sessions and increased the terms of assemblymen to two years and senators to four.³

GOVERNOR: The chief magistrate of the state's original term was two years, but it was increased to four by an 1862 constitutional amendment. Chief of the executive branch, he made all formal appointments, supervised civil and military officers, headed the state militia, pardoned prisoners, addressed or forwarded messages to the legislature, approved or vetoed legislation, and served on a variety of boards. ("Too many" was a frequent complaint.)

LIEUTENANT GOVERNOR: Terms were the same as those for governor, and if the governor left office, he assumed that role, as did John McDougal in 1851, John G. Downey in 1860, and Romualdo Pacheco in 1875. As president of the Senate, he could vote on legislation to break a tie. During these years he served on various state boards, such as the Prison Commission and Trustees of the Burial Grounds.

SECRETARY OF STATE: Originally appointed by the governor with the consent of the Senate, his office was made elective and the term fixed as the same as that of the governor by constitutional amendment in 1862. His duties included keeping records of the executive and legislative branches; in essence, he was chief archivist, as spelled out in the 1850 legislature's first act, which created the state's public archives. But over the years he was assigned special tasks, some of which required agencies to fulfill them, such as head of the State Library and sealer of



Tennessee-born attorney Peter Hardeman Burnett was one of the first gold seekers to emigrate to California from Oregon in 1848. In November 1849 voters elected him California's first governor, ten months before the region officially became a state. A stern conservative, Burnett advocated the death penalty for thieves and refused to allow the penniless state legislature to procure loans. He resigned in January 1851 after less than thirteen months in office and moved to San Francisco, where he eventually became a wealthy lawyer and banker. *California Historical Society, FN-23248.*

weights and measures. Another 1850 law required him to record and issue certificates of incorporation, so he was also involved in the growth of business.

TREASURER: His election and term were the same as that of the governor and varied accordingly. His office was the official bank of the state, clearing all checks and warrants. He received and stored the state's income and paid its bills on warrants from the controller. He also redeemed and paid interest on state bonds. Although the state's income was scarce in the 1850s and some of the early treasurers were novices at finance, most performed competently. An exception was Henry Bates, who in 1857 was impeached and convicted of malfeasance; the Senate forbade him from holding future state office.

CONTROLLER: His term was the same as that of the governor. He kept the state's accounts, issued warrants for claims against the state, and oversaw tax collectors, as well as county assessors and treasurers engaged in the state's business. Also his responsibility was preparation of an annual report to the governor and legislature on the state's financial health, together with recommendations for reducing expenses. John Stroud Houston, the first "comptroller" (as it was spelled then) developed procedures and forms for collecting money statewide that served as a model for the rest of the century.

ATTORNEY GENERAL: The length of his term was the same as that of the governor. As the state's chief attorney, his duties were to prosecute or defend all cases to which California was a party, to institute suits in the name of the state, and to advise state agencies on legal matters. He regularly attended sessions of the state Supreme Court and supervised district attorneys and other law enforcement officers. The first two attorneys general were criticized for pursuing legal matters far from the capital and being thus absent when their advice was needed.

SURVEYOR GENERAL: A constitutional officer, the person in charge of surveying and mapping the state was elected at two-year intervals. His duties were expanded in 1858 to serve as register of the state land office and to keep records and maps of all lands to which the state was entitled (especially state school lands).

SUPERINTENDENT OF PUBLIC INSTRUCTION: Although the constitution provided for this office, his power and duties were spelled out by the legislature in 1851. The following year a state Board of Education was created, consisting of the governor, superintendent, and surveyor general, with the superintendent serving as executive officer.

MINOR OFFICES PRIOR TO THE CIVIL WAR: In 1850 the legislature created the office of state printer; at various times the holder of this position was named by the governor or legislature, elected by the voters, or even selected under contract bidding—always to great controversy, because the job of printing minutes of the legislature, statutes, and executive announcements was considered a financial plum.



Like the British Parliament and U.S. Congress, California's state legislature is bicameral, with an upper house of senate and a lower house of assembly. Artist Edward Jump's illustration of the California House of Assembly for 1865 to 1866 includes, in addition to eighty assemblymen, various clerks, secretaries, translators, attorneys, and sergeants at arms. *Courtesy Bancroft Library.*

The office finally was replaced in 1872 by a superintendent of state printing. In 1850 the first act creating a California militia provided for the offices of adjutant-general and quartermaster-general, to be elected by the legislature for a term of four years (an early quartermaster, Joseph Morehead, was fired and prosecuted for collecting state arms for a filibustering expedition); when the term ended, the quartermaster position was melded into that of the adjutant. In 1851, the legislature provided for appointment of a superintendent of the state prison and a three-man Board of Inspectors of the State Prison, offices that constantly evolved during the decade until culminating (1858) in a Board of Directors and a Board of Examiners of the State Prison, both of which were composed of state executive officers. The inspectors, together with the superintendent of public buildings, in 1852 were named to a commission charged with selecting a site for erection of a state prison;

they chose Point San Quentin, north of San Francisco. The first state Board of Examiners (governor, secretary of state, attorney general) was created in 1856 to examine the books of the controller and treasurer and pass on any claims against the state; this body was the ancestor of the 1911 Board of Control. An 1856 law named the secretary of state, controller, and a Sacramento resident to a Board of Capitol Commissioners to contract for erection of a state capitol building in Sacramento, but not until 1860 was money for construction of the capitol authorized.⁴

With this cast of characters in place, we can examine the highlights of the first three decades of state government.

The first legislature ranks as the most creative and probably the most competent. It included many members of the constitutional convention and was faced with the daunting challenge of creating a new government. In a few months' time, legislators had to develop statute law, civil and criminal; establish courts to administer justice; set up county governments to serve as the local arm of the state; design procedures for selling public land, building roads, and draining swamps; stimulate and regulate economic growth; devise mechanisms for dealing with the federal government and other states; construct prisons and hospitals; introduce a public school system; provide mechanisms for incorporating cities and towns; and find the money to pay for it all. Revenue measures chiefly were drafted by the Senate Committee on Finance, headed by Thomas Green, and included taxes of 50 cents on each \$100 worth of taxable property, a poll tax of \$5 on every male inhabitant between twenty-one and fifty years of age (unless otherwise exempted), and a foreign miners' fee of \$20 per month. The last, reflecting racial tensions in the mining regions that were home to many of the legislators, was aimed principally at curtailing the competition of Hispanics. Widely ignored, it proved to be a money-raising failure. Other bills authorized the state treasurer to issue \$300,000 worth of bonds, bearing interest of 3 percent per month, and appropriated \$750,000 from the general fund to pay state expenses. These measures created a financial straitjacket that crippled the government's ability to function when income failed to match expectations. Everyone involved in the birth of state government—legislature, executive officers, even the former military governor and secretary of state—believed that the federal government would come to the aid of California (as it had other territories and states) by remitting to it those monies collected by customs officers at local ports of entry in 1848–49, the so-called "civil fund." But in spite of almost continual correspondence with Washington and the later efforts of California's congressional delegation, no such money ever was provided. It was a grave handicap for the fledgling state.⁵

Regarding government structure, the first legislature passed measures establishing twenty-five original counties, standardizing the officials required for each (judge,

clerk, attorney, surveyor, sheriff, recorder, assessor, coroner, treasurer), providing for the incorporation of cities and for the appointment of harbor pilots in San Francisco and port wardens at every California port of entry, and establishing marine hospitals. Sweeping away the old Spanish-Mexican judicial system, the legislature created a state Supreme Court, district courts, and courts of session in every county. It failed to select a permanent site for the state capital but set up a mechanism to tabulate voter-preference sentiment in a subsequent election.⁶

In regard to its own composition, the legislature established committees in ten areas: finance, judiciary, militia, counties, privileges, engrossed bills, a state library, printing, public buildings, and commerce. Probably the most influential leaders were the chairmen of the Senate and Assembly judiciary committees, Elisha Crosby and Alexander P. Crittenden: they crafted the state's long-term governmental framework. Presiding officers of the two bodies were Lieutenant Governor McDougal in the Senate and Speaker John Bigler in the Assembly, both of whom were conciliatory figures. Most of the legislators were young men who had recently arrived in California, were optimistic about the state's economic growth, and were unencumbered by partisan political pressures. In four months' time, they passed nineteen joint resolutions and 146 acts, some of which, in effect, endure to the present.⁷

Four months after adjournment of the legislature—on September 9, 1850—California was admitted to the Union as its thirty-first state. Therefore, when the second legislature convened on January 6, 1851, again in San Jose, its legitimacy no longer was in question. The leaders had a year's experience under their belts and were determined to present a more disciplined image to the public than that of their predecessors. The majority of the sixteen senators were returnees. On the other hand, the Assembly, which had undergone an election in the interim, sustained considerable change in its thirty-six-man membership. The "old guard" (including some former delegates to the constitutional convention) was substantially reduced; but a few of the newcomers, such as Stephen J. Field, Joseph McCorkle, and Samuel Merritt, were equally talented lawmakers. Bigler again served as Speaker of the Assembly, but when Lieutenant Governor McDougal replaced Burnett as governor early in the session, David Broderick of San Francisco was elected president of the Senate. The second legislature faced the task of evaluating operation of the processes set in motion by the first, identifying problems, and adjusting the machinery of state accordingly. Most of the laws they passed were revisionist rather than innovative. However, Field's committee drafted measures regulating proceedings in civil and criminal legal cases that lasted a generation; notable sections of the Civil Practices Act were a provision for exemption of debtors' property from forced sale and an order to the courts to consider local customs in cases involving miners. An act granting tidal water lots to the city of San Francisco for ninety-nine years generated considerable controversy. More popular were measures creating state institutions to



After years of heated debate in the state legislature, California's seat of government moved permanently to Sacramento in 1854 following brief stints in San Jose, Vallejo, and Benicia. This cartoon, which appeared in the literary journal *Golden Era* in April 1854, mocked the legislature's apparent capriciousness at moving the capital to "the other side of Jordan." *Courtesy California State Library.*

serve the population's sick and criminal persons. The sum effect of the work of the second legislature was to stabilize and substantiate state government, while curtailing the challenges to its authority that were common during the first year.⁸

The accomplishments of the first two legislatures were not appreciated by the contemporary press for a number of reasons. Most of the correspondents represented San Francisco newspapers and considered both the location (San Jose) and the participants to be rather crude. As newsmakers and idealists, they were quick to find fault with proceedings and to openly criticize results. Finally, they tended to reflect the views of friendly executive officers, particularly Controller John Stroud Houston and Secretary of State William Van Voorhies, who considered the legislators profligate and feuded with them over expenses and printing contracts.⁹

To be sure, behavior in the capitol was not formal. While debating, members could be found whittling, smoking, and toying with guns amid what an observer considered "a turbulent dinning colloquy." During the first session, as the time of adjournment drew near each day, the genial chair of the Senate Committee on

Finance, Thomas Green, would proclaim, "Well, boys, let us go take a thousand drinks." The invitation would be accepted by most, for camaraderie relieved the tension of the day's work. As a result, the body was dubbed the "Legislature of a Thousand Drinks," a reputation it could not shake. The milieu did not significantly change during the second session. According to an English visitor, "It is of the style of rump parliament, with very little dignity, very little sense, and still less honesty, judging from the imputations of the members against each other." Clearly, too, these men were racially prejudiced, as indicated by their passage of a foreign miners' tax and their readiness to mount military campaigns against Native Americans in the mining regions. However, their deliberations were not marked by the anti-Chinese fervor of subsequent legislatures, and they rejected the governor's plea to restrict immigration of free blacks into the state. In retrospect, they accomplished as much as could have been expected of that time and place. Many years later (1883), in a dialogue with former governor Frederick F. Low, the historian Hubert Howe Bancroft suggested that the first legislature may have been the purest and best. Low responded, "Very likely it was. It was a small body and . . . they had no money to spend and no schemes to pay money for. It is the conjuring up of these things that corrupts the legislature. It really was self denial in one sense to leave their diggings, where they could make \$10 or \$15 a day." Of the year 1851, another scholar, Josiah Royce, commented, "[It] is the manly year, the year of clearer self-consciousness, of lost illusions, of bitter struggles, of tried heroism, of great crimes and blunders indeed, and of great calamities, but also of the salvation of the new state." The second legislature played a role in his assessment.¹⁰

Subsequent California legislatures were less creditable (except for those of 1862-64, when the Civil War provided a focus). Reasons for the decline in their reputation and accomplishments are these: (1) The rise of political parties created extreme partisanship and diverted interest from legislating to campaigning. (2) Legislators devoted excessive attention to one of their roles to the exclusion of others, namely, the election of United States senators, which was also a contest for federal patronage (jobs, contracts), thus corrupting the process. (3) The personal feud between two powerful Democrats, David Broderick and William Gwin, further eroded compatibility and introduced a system of payoffs for support, so that thereafter many legislators were in the pockets of political factions. (4) The rise of corporations and special interests, such as Comstock Lode tycoons, agricultural monopolists, railroads, and banks, led to increasingly intensive lobbying in the capitol. Lobbyists often had a hand in drafting legislation and in rewarding those who voted in their favor. "Conflict of interest" was not a commonplace concept. Instead, the line between what was public welfare and what was private gain was nearly everywhere blurred.

It was common, however, for political parties out of power to attack state governments controlled by the opposition. Some examples of that rhetoric follow.



J. Neely Johnson.
1855-1856.
1857-1858.

In the mid-1850s, as the country headed toward the Civil War, a new national political party called the Know Nothings (officially the American Party) rose to power on a platform of nativism and anti-Catholicism. Know-Nothing candidates won remarkable victories in New England, New York, Maryland, and even California, where John Neely Johnson took advantage of a split in the state's Democratic Party in 1855 to win the governorship. After a single term, he—along with the national Know-Nothing movement—receded from the public arena. *Courtesy California State Library.*

The Whig Party meeting in convention on July 6, 1857, proclaimed that "We most heartily disapprove and condemn the administration and government of the state since the organization thereof, the results of which have eventuated in squandering \$1,500,000 by the official cormorants who have been a constant curse upon the state." The Republican Party convention, on June 28, 1871, denounced "the scandalous abuse of power exhibited by a democratic legislature in the creation of useless offices, boards and commissions, and the exorbitant increase of salaries and fees, for partisan purposes." The Independent People's Party convention on September 25, 1873, declared, "The abominable and infamous practice of securing election to office by the corrupt use of money at the polls, and in bribing members of legislative bodies, which has become so prevalent in late years, is an evil which strikes at the very foundation of free government."

But though it might direct searing criticism during campaigning, when a new party came to power, it fell into the same pattern of patronage and payoffs as its predecessor. For example, when the American Party (dubbed the "Know Nothings") captured the legislature in 1856, it was expected to curtail political corruption. Instead, according to a student of the party's rise and fall, "Believing from the start that the Know Nothing organization was temporary, the politicians and their friends gave no consideration to its future and cared nothing for its accomplishments in office, but in the customary 'log-rolling' manner, dealt out the spoils of office for private gain." Reflecting on why, after the first two sessions, California legislators were so easily contaminated, former governor Frederick Low in 1883 told Bancroft:

The first venality developed itself in the state when Broderick fought for the Senate. . . . Most legislators when they begin are well meaning simple-minded men—the mass of them intend to do what is right. Their poor pay don't support them; they see others voting and getting paid for it, and they do the same. They get discouraged and say, "Oh, what is the use?" and before the legislature adjourns the lobbyists have a ring made up and you can count on it just as surely as you can count on your fingers. . . . You can buy a man sometimes with a good dinner quicker than you can with a thousand dollars. They study a man's character.

That first political factions and then special business interests compromised the integrity of the state legislature was recognized by most nineteenth-century historians and contributed to the public disaffection that led to the second constitutional convention.¹¹

In the three decades between the first and second constitutional conventions, thirteen men served as governor of California (see table 6.1). The first two ran in nonpartisan elections and nominally were independents, but in actuality were Dem-

ocrats. Prior to the Civil War, all except one, J. Neely Johnson (a Know Nothing), were Democrats. Beginning in 1862, four of the state's six governors were Republican. The time that each served in office varied dramatically. The state's first two governors served only a year; the third, four years (two two-year terms). Four of the next five governors were in office for two years, the remaining one only five days. After the length of terms changed to four years in 1863, most of the remaining governors were in office for one four-year term, the exception being Newton Booth, who resigned with ten months remaining to accept appointment to the United States Senate, thus promoting Lieutenant Governor Romualdo Pacheco to head of state for that brief period. To serve one term or less was the norm (only John Bigler was re-elected); this practice guaranteed a rapid turnover in a leadership role where experience usually is considered an attribute.¹²

The first governor, Peter Burnett, was a rather enigmatic figure. Politically ambitious, but reserved and aloof, he often played the role of judge rather than innovator. Born in Tennessee and reared in Missouri, Burnett absorbed the culture of the Old South before traveling to Oregon and becoming a state supreme court justice. Joining the Gold Rush, he administered business matters for John Sutter and son in Sacramento, acquired real estate investments, and for a brief time served as a superior judge in California's military government. As governor, he refused to commit himself on the pressing issues of the day, either to the press or to the legislature. His two gubernatorial messages were concerned with the costs and mechanisms of government, drafting the legal code, and immigration of free blacks (which he opposed unless African Americans were granted full citizenship rights, which he also opposed). In August 1850, he called out the state militia to suppress a squatter riot in Sacramento.

Burnett depended upon the other executive officers to administer state government, used the veto power rarely, and pardoned only one lawbreaker. After he delivered his message to the second legislature, he resigned on January 9, 1851, citing the need to tend to his personal affairs (he was very much in debt). Contemporaries believed that he was offended by increasing criticism of his governance style from both the legislature and the press, and that public life had become distasteful to him.

Evaluations of Burnett's administration vary widely. To Elisha Crosby, Burnett was honest but lacked confidence in himself: "He hadn't *backbone* enough to retain his position and to fulfill what might be required of him in emergencies." Oscar Shuck considered him "cautious, reflective, laborious, and in morals stainless . . . a business governor." Frederic Low was less praiseworthy: "He was very much over-rated . . . one of those men who make considerable reputation by looking wise and not saying much." But as the pioneer governor with no precedents to follow, Peter Burnett was a pathfinder; he had no reservations about creating a state government even before California had been admitted to the Union, and he enhanced the respectability of the office with his statesmanlike demeanor.¹³

TABLE 6.1

Principal California Executive Officers, 1849-1879

Governors

<i>Name</i>	<i>Term of office</i>
Peter Burnett	Dec. 20, 1849-Jan. 9, 1851
John McDougal	Jan. 9, 1851-Jan. 7, 1852
John Bigler	Jan. 8, 1852-Jan. 9, 1856
J. Neely Johnson	Jan. 9, 1856-Jan. 8, 1858
John B. Weller	Jan. 8, 1858-Jan. 9, 1860
Milton S. Latham	Jan. 9-14, 1860
John G. Downey	Jan. 14, 1860-Jan. 10, 1862
Leland Stanford	Jan. 10, 1862-Dec. 10, 1863
Frederick F. Low	Dec. 10, 1863-Dec. 5, 1867
Henry F. Haight	Dec. 5, 1867-Dec. 8, 1871
Newton Booth	Dec. 8, 1871-Feb. 27, 1875
Romualdo Pacheco	Feb. 27-Dec. 9, 1875
William Irwin	Dec. 9, 1875-Jan. 8, 1880

Lieutenant Governors

<i>Name</i>	<i>Date inaugurated</i>
John McDougal	Dec. 20, 1849
David Broderick (acting)	Jan. 9, 1851
Samuel Purdy	Jan. 8, 1852; Jan. 7, 1854
Robert Anderson	Jan. 9, 1856
Joseph Walkup	Jan. 8, 1858
John G. Downey	Jan. 9, 1860
Issac Quinn (acting)	Jan. 20, 1860
Pablo de la Guerra (acting)	Jan. 7, 1861
John F. Chellis	Jan. 10, 1862
T. N. Machin	Dec. 10, 1863
William Holden	Dec. 5, 1867
Romualdo Pacheco	Dec. 8, 1871
William Irwin (acting)	Feb. 27, 1875
James A. Johnson	Dec. 9, 1875

(continued)

TABLE 6.1 (continued)

Secretaries of State

<i>Name</i>	<i>Date took office</i>
William Van Voorhies	Dec. 21, 1849; Jan. 9, 1852
James W. Denver	Feb. 19, 1853; Jan. 9, 1854
Charles H. Hempstead	Nov. 5, 1855
David F. Douglass	Jan. 10, 1856
Ferris Forman	Jan. 9, 1858
Johnson Price	Jan. 10, 1860
William Weeks	Jan. 11, 1862 (died in office)
A. A. H. Tuttle	Aug. 17, 1863
Benjamin B. Redding	Dec. 7, 1863
H. L. Nichols	Dec. 2, 1867
Drury Melone	Dec. 4, 1871
Thomas Beck	Dec. 6, 1875

Treasurers

<i>Name</i>	<i>Date took office</i>
Richard Roman	Dec. 22, 1849; Jan. 5, 1852
Selden A. McMeans	Jan. 2, 1854
Henry Bates	Jan. 7, 1856 (impeached and removed from office)
James L. English	Feb. 13, 1857
Thomas Findley	Jan. 4, 1858; Jan. 2, 1860
Delos R. Ashley	Jan. 6, 1862
Romualdo Pacheco	Oct. 10, 1863; Dec. 7, 1863
Antonio F. Coronel	Dec. 2, 1867
Ferdinand Baehr	Dec. 4, 1871
Jose G. Estudillo	Dec. 6, 1875

Controllers

<i>Name</i>	<i>Date took office</i>
John Stroud Houston	Dec. 22, 1849
Winslow S. Pierce	Jan. 5, 1852
Samuel Bell	Jan. 2, 1854
George W. Whitman	Jan. 7, 1856
Aaron R. Meloney	Feb. 4, 1858

Controllers (*continued*)

Samuel Brooks	Jan. 1860
James S. Gillen	Nov. 20, 1861
Gilbert R. Warren	Jan. 6, 1862
George Oulton	Dec. 7, 1863
Robert Watt	Dec. 2, 1867
James Green	Dec. 4, 1871
James W. Mandeville	Dec. 6, 1875 (died in office)
William B. C. Brown	Feb. 7, 1876

Attorneys General

<i>Name</i>	<i>Date took office</i>
Edward J. C. Kewen	Dec. 22, 1849
James A. McDougall	Jan. 6, 1851
J. Clinton Hastings	Jan. 5, 1852
John R. McConnell	Jan 2, 1854
William M. Stewart	June 7, 1854 (temporary appointment)
William T. Wallace	Jan. 7, 1856
Thomas H. Williams	Jan. 4, 1858; Jan. 2, 1860
Frank Pixley	Jan. 6, 1862
John G. McCullough	Dec. 7, 1863
Jo Hamilton	Dec. 2, 1867 (returned to office Dec. 6, 1875)
John Lord Love	Dec. 4, 1871

Surveyors General

<i>Name</i>	<i>Year took office</i>
Charles Whiting	1849
William Eddy	1852
Samuel Marlette	1854
John Brewster	1856
Horace Higley	1858
James F. Houghton	1862
John W. Bost	1867
Robert Gardner	1871
William Minis	1875

(*continued*)

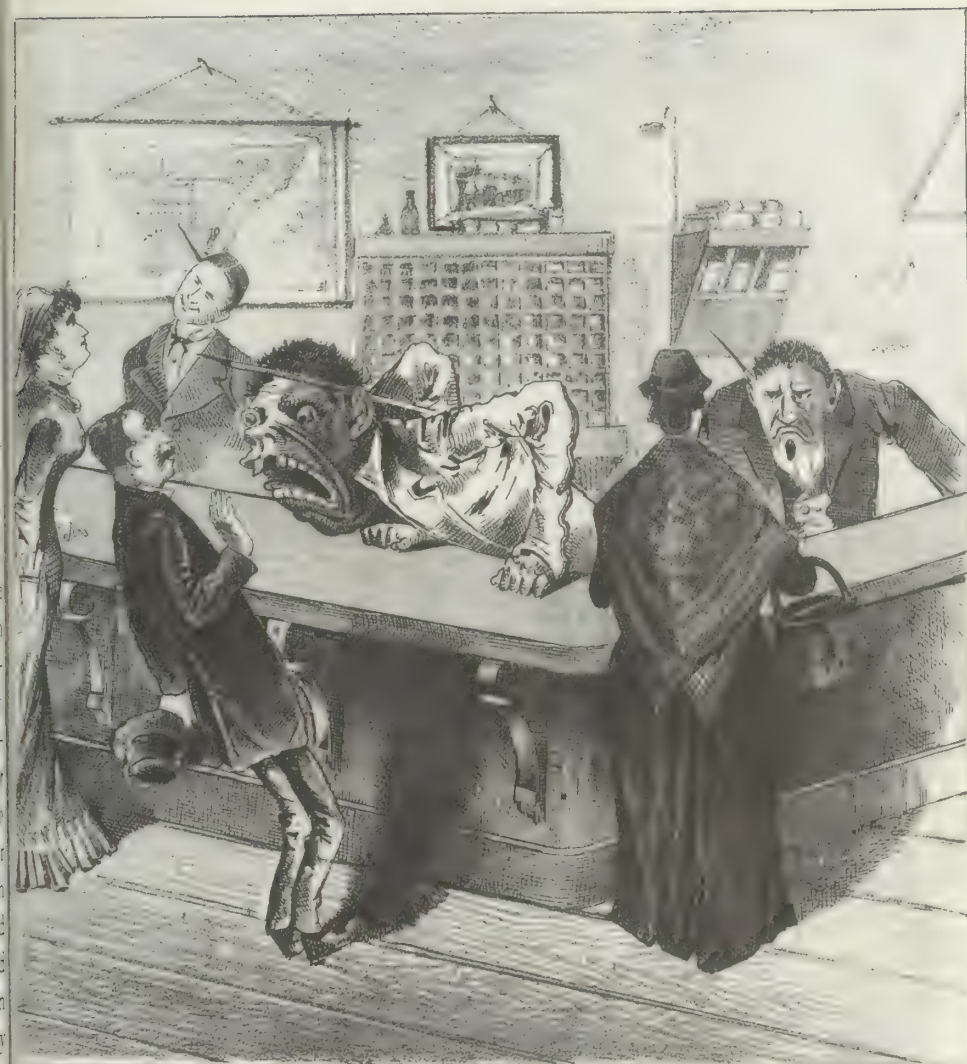
TABLE 6.1 (*continued*)

Superintendents of Public Instruction

<i>Name</i>	<i>Year took office</i>
John G. Marvin	1851
Paul K. Hubbs	1854
Andrew J. Moulder	1857
John Swett	1863
O. P. Fitzgerald	1867
Henry Bolander	1871
Ezra S. Carr	1875

California's second governor, John McDougal, presented a total contrast in style. Gregarious and earthy, he shared many of the traits of his fellow veterans of the Mexican War and the miners who elected him to the constitutional convention and the office of lieutenant governor. The legislature elevated him to the governorship on January 9, 1851, and he made a brief inaugural address professing humility. He was popular at the start of his administration for his affability, but that very familiarity undermined his reputation as the months passed. When his wife was not around, he drank and gamed with the legislators and then quarreled with them over minor matters. He vetoed five bills (and was sustained twice) and made greater use of the pardoning power than Burnett had (eighteen pardons). Recurring Indian wars occupied much of his attention; he made special pleas to the legislature to fund the state militia and personally traveled to some of the troubled areas. He suffered great disappointment when the first state convention of the Democratic Party in May 1851 refused to nominate him for reelection, turning instead to Assembly Speaker John Bigler.

Later in his term McDougal became embroiled in disputes with citizens of Napa and Sacramento over reprieves granted to criminals and with San Francisco's first vigilance committee over the hanging of two prisoners. In San Francisco he issued a gubernatorial proclamation condemning the vigilantes and calling upon citizens to obey elected authorities, but with no power to prevent hangings or enforce the proclamation, he was ignored. In his final message to the legislature, McDougal successfully advocated establishment of a federal mint, a public school system, and a state prison, but failed in his call for a state university, tax relief for southern counties, and the forced removal of California's Native Americans. Some commentators believe that McDougal has been treated unfairly by historians because of their sympathies for the vigilance committee with whom he tangled; others dismiss



Government employees—portrayed in this 1883 *Wasp* cartoon titled "Our Public Servants" as simpering, fiendish, and sullen—served as popular targets for nineteenth-century satirists. *Courtesy City of Sacramento, History and Science Division, Sacramento Archives and Museum Collection Center, Eleanor McClatchy Collection.*

him as "a whiskey bum." His lasting legacy probably is his support of legislation that revised and stabilized the legal codes and his use of the governor's office to protest local usurpations of authority.¹⁴

The administration of John Bigler had four years to top the accomplishments of its predecessors but failed to do so; it may be regarded largely as a four-year holding action. Bigler won two gubernatorial elections by narrow margins, and after the

press printed charges of election irregularity, a legislative joint committee in 1854 launched an investigation, but eventually validated the returns. Bigler, a native of Pennsylvania, won repute as a champion of small farmers, those who claimed preemption (often dubbed "squatters"). As such, he was an opponent of the landed gentry, especially those who held Spanish and Mexican land grants. Bigler also was the first governor to advocate the restriction of Chinese immigration, an issue that would fester until the second constitutional convention and beyond. His greatest efforts were devoted to reducing the state's debt by revising tax laws, cutting government expenses, and redeeming outstanding bonds. Yet he was only marginally successful, as costs remained high throughout his two terms. His accomplishments included revising the state hospital and prison systems, an act making Sacramento the permanent seat of government, and the establishment of 221 schools. Bigler issued seventy-one pardons but did little to change the state's administrative structure. His suggestions to reduce the cost of government failed in part because of enmity he engendered among those affected.

In retrospect, Frederick Low gave Bigler a lukewarm endorsement: "I rank him among the Democratic politicians here as a good, fair, average man, and for the time he made a fairly good executive officer." Bancroft considered him a governor who was good-natured and approachable but who could not control his associates or the legislative process. The historian was more critical of the dispersal of public lands that began during Bigler's years in office. The state had received from the federal government five million acres of swamp and overflowed lands and five hundred thousand acres for internal improvements; in 1853 the public lands in California were admitted to preemption rights. The state also was granted two townships for the use of a seminary of learning (to be selected by the governor from the public domain) and ten sections for aid in erecting public buildings. Bancroft claimed that by 1869 most of these grants had been sold, and of the money gained, "a large part of it [was] dissipated by the extravagance of the early legislators, or fraudulently disposed of by political tricksters in collusion with dishonest officials."¹⁵

Some other early governors had noteworthy accomplishments. During J. Neely Johnson's administration, the state debt was accumulated into one fund and reduced regularly, especially after the federal government agreed in 1856 to pay \$924,260 of the Indian war debt. Like McDougal, Johnson clashed with a new San Francisco vigilance committee, with much the same result. A gubernatorial proclamation on June 4, 1856, declared the city to be in insurrection and called on the state militia to suppress the committee, but the militia deserted to the opposition, and Johnson's proclamation languished without the means of enforcement. However, Johnson did sign into law a later measure, promoted by vigilance committee sympathizers, consolidating San Francisco city and county government.¹⁶

Governor John B. Weller brought to the attention of the legislature a problem

about which most of his predecessors had informally complained, namely, that his membership on a variety of boards and commissions sapped his energies. Specifically, he stated in a special message on March 7, 1859, that he had devoted two months of his time to his role as director of the state prison, and he asserted that "in no other State are the duties of the Governor so varied and arduous as in California." During his administration, the anti-Chinese agitation surged again; Weller sent a company of the state militia to Shasta County to put down rioting miners. Also, as a consequence of an act he had signed, six southern California counties voted to separate from the state and form a "territory of Colorado." Weller's successor, Milton S. Latham, forwarded the act to President James Buchanan in Washington with the recommendation that it be presented to Congress, but no action was taken on the measure, because of the looming crisis over secession by southern states. When Latham himself was elected to the United States Senate in 1860 after only five days in the governor's office, Lieutenant Governor John G. Downey was elevated to the governorship. Downey was the first southern Californian to occupy the chair, and his wife, Maria Guirado, member of an early Californio family, became the state's first lady at age twenty-one. According to Bancroft, "[Downey's] administration as governor was universally commended." Downey won accolades and the hearts of San Franciscans for vetoing a notorious bulkhead bill, which would have formed a monopoly to build a seawall with piers and docks along the city's waterline and would have given the favored company the right to appropriate all public and private property to carry out its scheme. Downey was cursed by the developers, but praised by the city and historians of the era.¹⁷

Downey was the first of three men to serve as governor during the Civil War, the others being Leland Stanford and Frederick F. Low. The war subtly altered the role of governor in that these men were more regularly called upon to deal with the federal government and to make decisions regarding the state militia. But more important, the war created an economic boom and stimulated new industries that called for their attention. As far as the office of governor itself is concerned, both Stanford and Low broke new ground: Stanford was the first Republican to occupy the office, and Low (also a Republican) was the first governor to be elected to a four-year term. With the legislature meeting only biennially, and Low in office for a longer period, the governor's office assumed greater state leadership, at least in the public perception. All three wartime governors fulfilled federal War Department requisitions for troops, Downey in raising units to guard the overland mail route and suppress Confederate sympathizers in southern California, Stanford and Low in keeping those units properly staffed, supplied, and fed, as well as enlisting new volunteers to confront Indian uprisings. (The southern California force evolved into the renowned California Column, which traversed the desert to halt a Confederate army penetrating the Southwest.)



A Chinese American placer miner pans in Amador County in the late nineteenth century. Chinese immigrants found both economic opportunity and legal discrimination in California. During the Gold Rush, the state legislature passed a foreign miners' tax in 1852, specifically aimed at discouraging Chinese prospectors. Chinese Californians were also prohibited from testifying against whites in court and were denied the right to become naturalized citizens. Anti-Chinese xenophobia reached its height in California during the depression of the 1870s, when the nativist Workingmen's Party rose to prominence, "anti-coolie clubs" emerged, and mobs lashed out at Chinese communities throughout the state. *Courtesy California State Library.*

All three governors corresponded with Washington on the state of readiness of California's defenses against prospective invaders. All three responded to federal calls for funds to help finance the war, especially a direct tax with quotas assigned to each state; however, Stanford wrangled (to no avail) with state treasurer Delos R. Ashley over the latter's decision to pay part of California's quota in paper currency that was worth less than coin. Both Stanford and Low worked harmoniously with the legislature during sessions that largely focused on war measures, such as curbing sedition and financing a soldiers' relief fund. Stanford vetoed only five of more than 430 bills passed in 1862 and only one of 530 in 1863. Low used the veto pen much more regularly, chiefly on special legislation he considered none of the state's responsibility. Both Stanford and Low supported measures aiding business, such as forming savings and loan corporations, paying bonuses for new industries in agri-

culture and manufacturing, and granting road-building materials and rights of way, but they differed over the degree of state aid to railroads. Stanford, who was president of the Central Pacific Railroad at the same time he was governor, lobbied for and approved several subsidies of his own corporation. Low vetoed several similar measures, largely because he considered them raids on the state treasury at a time when he was preaching frugality. However, he did agree to the assumption by the 1864 legislature of interest on \$1.5 million in railroad bonds at 7 percent for twenty years—a commitment that historians estimate was worth \$2.1 million. The state debt was reduced during all three wartime administrations because of the surge in business; in Stanford's term alone, it was cut in half. Low was especially proud that all the wartime expenses, including bounties for volunteers, resulted in no debt against the state.¹⁸

The postwar governors—two of them, Henry Haight and William Irwin, Democrats, and two, Newton Booth and Romualdo Pacheco (only one term together), Republicans—were slowly but surely affected by the gathering political winds that led to the second constitutional convention. Democrats Haight and Irwin were perceived to be sympathetic to workingmen and farmers, Booth to business interests. But these were the years of corporate ascendancy, and the role of governors was marginalized. It may be said of the state, as William Issel and Robert Cherny have written of San Francisco, that "the era was one of minimal government by any criterion"—entrepreneurs, rather than government, made decisions about development. Conversely, the machinery of government was growing, and governors spent much of their time on various boards and commissions, engaged in, to use a modern term, "micromanagement." These duties constituted a major handicap, as John W. Dwinelle emphasized in an address to the California Supreme Court on September 25, 1878, memorializing former governor Henry Haight, who had just died after being elected to the second constitutional convention. According to Dwinelle, Haight had complained about the "physical, moral and political strain of exercising the pardoning power" and urged "elevation of the Governor of the State from being the mere chairman of committees to the position of Grand Censor and Inquisitor." Dwinelle continued his oration, which was, in effect, a charge to the newly elected members of the convention to reexamine the role of governor.¹⁹

Haight's matured opinion was, that instead of being a component member of the Prison Directors, Board of Regents of the University, the State Normal School, the Board of Examiners, the Board of State Capitol Commissioners, and the like, where he can be overturned by a bare majority vote, and thus held responsible by public opinion for action in which he does not concur, he should rather be the officer to whom all such bodies should make report of what they had done, and be vested with large powers of supervision, suspension and removal.



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From 1850 to 1878, state government was swelled by a variety of offices and agencies, some of which existed fleetingly, others permanently in sundry incarnations. Some of the more important ones were the following:

STATE ARCHIVES: The first act passed by the first legislature dealt with the state's public archives, both those of the new state and of the former Spanish-Mexican government, delegating to the secretary of state responsibility for obtaining and preserving the archives. The Spanish-Mexican papers were released to the federal government in 1858, but the records of past state administrations traveled with the secretary of state to each successive state capital in the 1850s and eventually to Sacramento. The archives originally included the papers of the governor, secretary of state, and legislature and was expanded to include Supreme Court cases and some record books of other departments, chiefly the controller and treasurer. Newly created departments were in charge of their own records with discretion to keep or destroy anything but their record books, a largely hit-or-miss operation throughout the nineteenth century; even the record books were protected by tradition, not law. The most common users of the archives were legislators and their aides, justices and their clerks, lawyers, land agents, and, eventually, historians.²⁰

STATE LIBRARY: The State Library was born on December 24, 1849, with a gift of five books to the Senate. Three weeks later, John C. Frémont donated a hundred volumes. The 1850 legislature formally created the State Library, to be kept in the office of the secretary of state, who was ex-officio librarian. In 1852, a library fund for making purchases was created, along with a board of directors composed of the governor, treasurer, controller, president of the Senate, and Speaker of the Assembly. Funds were raised by requiring every state officer to pay \$5 on receipt of commission and reserving \$5 from the pay of each member of the legislature. Most of the early expansion was in legal texts; in 1856 a collection composed of thirty-five hundred law books was purchased for \$17,000 from San Franciscan William Olds and became the basis for the library's law department. In 1861 the State Library was separated from the secretary of state's office and placed under the control of a five-man board of trustees (the governor, chief justice, and three members named by the legislature), which had the power to appoint a librarian. The first designated state librarian they appointed was W. C. Stratton, who served from 1861 to 1870. R. O. Cravens served from 1870 to 1882. During these years, it was not a lending library or open to the public; primarily it was used by legislators and jurists, but gradually it grew into a major public institution.²¹

BOARD OF EDUCATION: The first school law passed by the legislature in 1851 defined the duties of the superintendent of public instruction. A second law in 1852 created a state Board of Education composed of the superintendent, gover-



The California State Library, created by the legislature in 1850, grew to become one of the West's premier public research institutions. Once located in the Capitol in Sacramento, it moved in 1928 to a nearby Library and Courts Building with a main reading room featuring a mural by famed California artist Maynard Dixon. *Courtesy California State Library.*

nor, and surveyor general (included because the board supposedly would manage and sell school lands), and provided a state school tax of five cents on each hundred dollars of assessed valuation. Until the mid-1860s, the Board of Education's principal function was to apportion, annually, the state school moneys. Legislation in 1860 authorized the board to adopt a state series of textbooks and empowered the superintendent to appoint a state Board of Examiners with the power to grant state teachers' certificates. Thanks to the influence of John Swett, who took office as the fourth superintendent on January 2, 1863, the state school structure was revised. (In 1866 Swett served as secretary to both the Senate and Assembly education committees, so every bill passed through his hands.) The legislature set up a free school system supported by taxation and reorganized both the Board of Examiners and the Board of Education. The former now would be composed exclusively of educators empowered to issue diplomas and certificates. The latter now would consist of the governor, the superintendent, the principal of the State

Normal School, the school superintendents of four counties, and two professional teachers, a structure that (with revision) remained in effect until 1880; it was authorized to adopt rules for the conduct of schools, courses of study, and a uniform state series of texts.²²

STATE HOSPITALS AND SPECIAL SCHOOLS: In the early 1850s three state hospitals existed—at San Francisco, Sacramento, and Stockton—supervised by a board of trustees of six members chosen by the legislature. The government scraped for funds to support their maintenance until 1853, when the Senate's Hospital Committee criticized great extravagance at institutions that benefited chiefly local residents. The hospital at Sacramento was abandoned, that at San Francisco designated a marine hospital (until it, too, was abolished in 1855), and that at Stockton converted to an insane asylum. Captain C. M. Weber of Stockton donated one hundred acres of land to the state for construction, and management of the insane asylum was entrusted to a board of five trustees appointed by the legislature. Over time, the board's membership was altered to include Stockton residents and representatives from each of the state's congressional districts. A correspondent of *Hutchings' California Magazine* in 1859 provided a detailed description of the asylum. He found the building's exterior "imposing and inviting," the grounds "well laid out and cleanly kept, the work of the patients themselves." Inside, "milder cases" wandered the first floor; on the second floor, those "more malignant" were confined behind locked doors. The asylum that year housed 280 men and 66 women; their insanity was caused, according to the staff, by masturbation, intemperance, want of chastity, and incontinence. The reporter observed, "It is a depressing sight, indeed, to witness either man or woman when reason is dethroned; but it is a wise provision of the State that such should be well cared for, and by kind and suitable treatment, both physical and mental, restored to their former sanity." Another state effort at rehabilitation undertaken in 1859 lasted only a brief time. The governor was authorized to appoint a board of commissioners to find a site for construction of a State Reform School, which subsequently was established at Marysville. When the act was repealed in 1868 and the institution abandoned, the boys of the reform school were dispersed to locations ineligible for state funding. More permanently, the California School for the Deaf and Blind was created in 1860, when a five-member board of trustees was charged with erecting an institution for educating and caring for the indigent blind and deaf. A board of managers subsequently was added to administer the school. Initially located in San Francisco, the school moved to Berkeley in 1869.²³

PORT AND HARBOR COMMISSIONERS: Because seagoing transportation was vital to California's economic and social development, state government from the start gave special attention to licensing pilots for guiding shipping at various



Artist B. F. Butler's 1855 lithograph of the state insane asylum in Stockton depicts the institution as dark and menacing, but some contemporary observers praised its cleanliness and gentle methods. "There is not a single cell in or about the establishment," boasted the state asylum superintendent in the mid-1850s. "Many cases recover without much medicine. The great object is to support the system, to compose the mind and induce sleep." *Courtesy Bancroft Library.*

coastal harbors. The legislature passed in 1850 both a general law providing standards and qualifications and special acts regulating individual ports. To carry out the provisions, the legislature created a panoply of regulatory bodies: Boards of Pilot Commissioners for San Francisco Bay (1850), Mare Island and Benicia (1856), Humboldt Bay and Bar (1860), and San Diego (1853, formalized in 1872); two port wardens for San Francisco, and one for every other port of entry in the state (1850). Qualifications for membership on the various boards of pilot commissioners changed over the years, but the governor made the appointments after receiving recommendations from residents of the affected ports, such as shipmasters or chambers of commerce. Expenses of each board were funded by charging local pilots 5 percent of their earnings. Port wardens were appointed by the governor with the consent of the Senate; they were required, when requested, to survey any ship arriving in distress or that had suffered damage at sea. In 1863 the legislature created a Board of State Harbor Commissioners (three men with staggered four-year terms), which, despite its name, was concerned primarily with the bay waterfront of San Francisco and the management of its wharves, seawalls,

piers, rents, and tolls. In effect, the state took over operation of the harbor and became a large-scale entrepreneur. With the creation of this body, the legislature hoped to put an end to the constant political turmoil, corruption, charges, and countercharges that waterfront development had generated during the preceding decade. However, the three commissioners had little experience in confronting the immense problems of managing the harbor and in the 1870s were themselves compromised by charges of corruption.²⁴

STATE BOARD OF EQUALIZATION: Since the first attempt to assess property and collect taxes from Californians in 1850, controversy raged over differing standards used by county officials in various parts of the state. The belief of southern California residents—largely accurate—that they were being treated unfairly led to the movement for state division in the 1850s and rankled even after the Civil War. Partially in response, on April 4, 1870, the legislature created a State Board of Equalization, consisting of the controller and two members appointed by the governor to four-year terms. Their task was to investigate methods of assessment used locally and to equalize tax collection throughout the state; within a year, total assessments more than doubled. These provisions were incorporated into the Political Code of 1872 (the controller was made *ex officio*), and in 1876 the attorney general was added to the board. In January 1874, the *raison d'être* of the Board of Equalization was undermined by the state Supreme Court, which declared that section of the Political Code unconstitutional. The court held that the state constitution mandated that valuation must be made by locally elected assessors and that the power to change it could not be delegated to a state board. This decision also provided impetus to the call for a convention to revise the constitution.²⁵

A review of California officialdom would be incomplete without reference to a variety of minor bodies created prior to the second constitutional convention. (Growth of the state prison system is covered in chap. 2 in this volume.) In 1860, the legislature named a board of commissioners to select a tract of land to be known as the State Burial Grounds; it became a board of administrative trustees in 1866. In 1870 an act created a Board of Fish Commissioners—three persons appointed by the governor to establish "fish breederies" to preserve fish in the state's waters, regulate length of the fishing season, and introduce new types of fish (many new species were brought from the eastern United States in aquarium cars). The legislature in 1854 established a State Agricultural Society, with the power to buy land for an experimental farm. Although the society was not officially part of government, it received \$5,000 in support annually and often functioned as an arm of the state. This relationship was solidified in 1863, when the legislature added a Board of Agriculture to administer society affairs. The society sponsored annual fairs, and during the Civil War its president awarded premiums for experiments to foster agricultural pro-

duction. Membership in the Board of Capitol Commissioners changed periodically after its organization in 1856, but despite war, flooding, cost overruns, and contractors' malfeasance, the new capitol building finally opened in Sacramento on November 26, 1869.

For a brief period of time (1861-1866), a Board of Swamp Land Commissioners existed to undertake reclamation of swamp, overflowed, and salt-marsh land acquired by the state from the federal government; in partnership with landowners, this board hired engineers and construction companies to drain surplus water. In 1868 and 1870, the legislature created two Code Commissions to review laws passed between 1850 and 1868 and to recommend legislation for clarification; as a result of their deliberations, newly revised Political, Civil, and Penal codes and a Code of Civil Procedure were passed in 1872. Included in the Political Code was a state Board of Health (first established in 1870)—seven physicians from throughout the state appointed by the governor to four-year terms, with solely advisory functions.²⁶

Faced with increasing political criticism that government was beholden to corporate interests, legislators took steps that may be considered precursors to a second constitutional convention. In 1868 the office of Insurance Commissioner was created to regulate insurance companies incorporated in California; the 1872 Political Code specified that the head of this department be appointed by the governor with the consent of the Senate. The first two commissioners were more aggressive in restricting activities of out-of-state companies and weeding out smaller firms than in supervising the local market. A Board of Bank Commissioners was established in 1878; its duties included licensing and examining California's banks. All banks were required to make annual reports and were subject to semiannual visitations. In 1876, the legislature took its first step to regulate the state's railroads by authorizing the governor to appoint three commissioners of transportation to fix maximum charges for freights and fares and prevent extortion in the operation of steam railroads. Although all of these agencies gathered useful information about the status of their fields, they were hampered by the refusal of many companies to provide the required data and ultimately were largely ineffectual, because little was done to protect them from being captured by the very interests they were intended to regulate. Finally, in 1878, foreshadowing what someday would become a department of public works, the legislature created the position of state engineer to improve irrigation, drainage, and river navigation. Among the tasks of the first engineer, the capable William Hammond Hall, was to devise a workable water plan for the state and to mitigate disputes between those claiming riparian rights to water (because their land lay alongside a source) and those seeking appropriation and transportation of water for agricultural development.²⁷

An on-again, off-again governmental position was that of state geologist. In 1851 legislators awarded that honorary title to John B. Trask and published a pamphlet



James T. Gardiner, Richard D. Cotter, William H. Brewer, and Clarence King (from left), members of the field party of the California Geological Survey of 1864. The men traveled from San Francisco through the San Joaquin Valley to Visalia and along the Kings River into the Sierra, eventually reaching Virginia City, Nevada. During its thirteen-year existence, the survey contributed significantly to scientists' and geographers' understanding of California's topography and geology. *Courtesy California State Library.*

based on his studies of the Sacramento Valley; two years later they appropriated \$2,000 for Trask to examine the Sierra Nevada and coast ranges and valleys, which resulted in three additional pamphlets. By the late 1850s public pressure had risen for more comprehensive surveys. At the urging of Justice Stephen Field and well-known scientists throughout the nation, the legislature in 1860 appointed Josiah D. Whitney to be state geologist and lead a geological survey of California. Whitney served until the office was abolished in 1874. His team of reputable assistants, some of whom became leading scientists of the era, produced an immense amount of useful scientific data regarding the state's topography, geology, economic resources, botany, and zoology. However, he antagonized the legislature by not concentrating on mineral and oil exploitation, and his relations with various governors (especially Downey and Booth) were icy. And thus, according to historian Gerald Nash, because of a conflict between pure and applied science, "the most ambitious attempt of state government to promote agriculture and mining by research came to an end."²⁸

For an overview of the effect of public policy on economic growth in California during the years 1849 to 1879, no study is more thorough and reflective than Nash's *State Government and Economic Development*, which has stood the test of time since it was published, in 1964. Nash argued that in the years after 1850, Californians were eager to exploit natural resources but needed investment capital and knowledge about mining and agriculture, for which they turned to government. Lawmakers in turn created a legal framework to attract entrepreneurs, extended direct financial subsidies and other incentives, imposed restraints on various groups, and created research facilities and agencies. Functions assigned to government in California were very similar to those inherited from other states because "the pattern of their political and administrative inheritance was flexible enough to meet their economic needs" until agricultural specialization and industrial growth transformed the dynamic after 1870. Thereafter, "governments at all levels found existing methods wanting and began to experiment with alternate means to deal with new economic problems." Other observers have recognized this shift. Historian David Alan Johnson points out that in its first thirty years, the state changed in many ways: it became urban, and heavy and light manufacturing, finance, and retail grew dominant, as did large-scale ranching and grain production, with a concomitant demand for consumer goods. By the end of the Civil War, only half of the members of the first constitutional convention still lived in California; by the mid-1870s, "the state's founding fathers had become relics of a bygone age." Yet, for English visitor James Bryce, summarizing his observations of California in 1881, the traits of the Argonauts—their temper, character, and expectation of success—were passed on to the capitalists and laborers who confronted one another in the conflicts that led to the second constitutional convention; and the corporate regime of the 1870s was the culmination of the individualist order of the Gold Rush. In like manner, California's gov-

erning officers—"officialdom"—were far different in motivation from those predecessors who gathered at the state capital in San Jose in December 1849, but the structure in which they operated and their assumptions about governance were in a direct line of descent.²⁹

NOTES

1. Very few studies have been devoted to early California government. Those nineteenth-century historians who tackled the subject were largely negative, reflecting the views of the press that they relied upon as sources; see, for example, Hubert Howe Bancroft, *History of California*, vols. 6 and 7 (San Francisco: The History Company, 1890), and Theodore H. Hittell, *History of California*, vol. 4 (San Francisco: N. J. Stone and Co., 1898). More objective overviews include William Henry Ellison, *A Self-Governing Dominion: California, 1849-1860* (Berkeley and Los Angeles: University of California Press, 1950); H. Brett Melendy and Benjamin F. Gilbert, *The Governors of California: Peter H. Burnett to Edmund G. Brown* (Georgetown, Calif.: The Talisman Press, 1965); and David Alan Johnson, *Founding the Far West: California, Oregon, and Nevada, 1840-1890* (Berkeley: University of California Press, 1992). Published after this chapter was written was Mary Jo Ignoffo, *Gold Rush Politics: California's First Legislature* (Sacramento: California State Senate, and Cupertino: California History Center and Foundation, De Anza College, 1999); it reviews proceedings of the 1849 constitutional convention and 1849-1850 legislature, presents capsule biographies of the first members of the Senate and Assembly, and concludes that these mostly American men imposed on California the traditions of the United States, replacing the Mexican heritage.

2. Bancroft, *History*, vol. 6, 308; *Alta California*, December 23, 1849; Herbert C. Jones, *The First Legislature of California* (Sacramento: California Assembly, 1949), 11-12; Ellison, *Dominion*, 56; *Journal of the Senate, 1st Session* (San Jose: J. Winchester, State Printer, 1850), 23-24.

3. Ellison, *Dominion*, 59-60; Carl Brent Swisher, *Motivation and Political Technique in the California Constitutional Convention, 1878-79* (New York: Da Capo Press, 1969), 93; Melendy and Gilbert, *Governors*, 120.

4. Information on the legislature and executive branch officers is taken from Elsey Hurt, *California State Government: An Outline of Its Administrative Organization, 1850 to 1939*, vol. 1 (Sacramento: Supervisor of Documents, 1936), 36-39, 69, 75, 77, 78, 180-82; Hurt, *California State Government: An Outline of Its Administrative Organization, 1850 to 1939*, vol. 2 (Sacramento: Supervisor of Documents, 1939), 5, 7, 9-10, 12, 17, 21, 23; Melendy and Gilbert, *Governors*, 120; C. F. Curry, ed., *California Blue Book or State Roster* (Sacramento: State Printer, 1907), 635-38.

5. Ellison, *Dominion*, chapter 7; Judson Grenier, *Golden Odyssey: John Stroud Houston, California's First Controller* (Spokane: The Arthur H. Clark Company, 1999), chapter 5; E. W. McKinstry, "Report from the Select Committee Appointed to Examine into the Nature of Certain Claims of the State of California," San Jose, March 13, 1850, 7-12.

6. Ellison, *Dominion*, 66-68; Jones, *Legislature*, 12-13.

7. Curry, *Blue Book*, 537-38; Jones, *Legislature*, 9-12, 14; *Journal of the Assembly, 1st Session* (San Jose: J. Winchester, State Printer, 1850), 624, 632-38.

8. Curry, *Blue Book*, 534-628; Melendy and Gilbert, *Governors*, 42-44; *Dictionary of American Biography*, s.v. "Field, Stephen Johnson."

9. Survey of the *Alta California*, *San Francisco Daily Herald*, *Evening Picayune*, *Daily Pacific News*, and *Sacramento Transcript* clearly demonstrates correspondents' propensity for legislative criticism and sympathy for the views of the controller and secretary of state. Of course, these two officers also dispensed the state's printing contracts, which may have won them friends in the press.

10. William Kelly, *An Excursion to California* (London: Chapman and Hall, 1851), 308-309; Mary Joan Elliott, ed., "The 1851 California Journal of M.V.B. Fowler," *Southern California Quarterly* 50 (September 1968): 229-33; Bancroft, *History*, vol. 6, 311; Robert H. Becker, ed., *Some Reflections of an Early California Governor Contained in a Short Memoir by Frederick F. Low . . . and Notes from an Interview between Governor Low and Hubert Howe Bancroft in 1883* (Sacramento: Book Collectors Club, 1959), 47; Josiah Royce, *California from the Conquest in 1846 to the Second Vigilance Committee* (1886; reprint, New York: Alfred A. Knopf, 1948), 242.

11. Winfield J. Davis, *History of Political Conventions in California, 1849-1892* (Sacramento: California State Library, 1893), 27, 308, 329-32; Becker, *Reflections*, 46-47; Bancroft, Royce, and Hittell, although they disagreed on many issues, were alike in their criticisms of later legislatures.

12. Curry, *Blue Book*, 640-41.

13. Royce Delmatier et al., *The Rumble of California Politics* (New York: John Wiley & Sons, 1970), 13; Peter Burnett, *Recollections of an Old Pioneer* (New York: D. Appleton & Co., 1880), 1-5; Melendy and Gilbert, *Governors*, 29-35; Elisha Crosby, *Memoirs: Remembrances of California and Guatemala from 1849 to 1864* (San Marino, Calif.: The Huntington Library, 1945), 46-47; Oscar T. Shuck, *Bench and Bar in California* (San Francisco: The Occident Printing House, 1888), 88-89; Becker, *Reflections*, 29.

14. *Journal of the Legislature, 2nd Session* (San Jose: Eugene Casserly, State Printer, 1851), 47, 842-43; Barbara Pickett, "The Life of John McDougal, the Second Governor of California" (seminar, paper, March 14, 1939, in the California State Library), 3-7; Melendy and Gilbert, *Governors*, 42-47; Becker, *Reflections*, 29. Melendy and Gilbert make the charge of historians' unfairness; they probably were referring to Bancroft and Hittell.

15. Melendy and Gilbert, *Governors*, 52-64; Becker, *Reflections*, 29-30; Bancroft, *History*, vol. 6, 638-42.

16. Melendy and Gilbert, *Governors*, 70-72; Bancroft, *History*, vol. 6, 710. The Democratic-controlled legislature in 1857 brought impeachment proceedings against Henry Bates, treasurer, and George Whitman, controller. Bates was charged with illegally giving \$88,000 to a San Francisco law firm to pay interest on state bonds (which was not paid), of illegally lending money, and of purchasing state warrants with state coin and "pocketing the difference in value." Whitman was charged with obstructing the board of examiners and refusing to provide information about the Bates affair. Bates was convicted and declared forever disqualified from holding office; Whitman, who fought his charges "inch by inch," was acquitted on all points. See Hittell, *History*, vol. 4, 199-200; Peyton Hurt, "The Rise and Fall of the 'Know-Nothings' in California," *Quarterly of the California Historical Society* 9 (June 1930): 111.

17. Melendy and Gilbert, *Governors*, 86-87, 95, 103-105; Bancroft, *History*, vol. 7, 279; Charles Russell Quinn, *History of Downey: The Life Story of a Pioneer Community and of the*

Man Who Founded It—California Governor John Gately Downey (Downey, Calif.: Elena Quinn, 1973), 33, 41.

18. Melendy and Gilbert, *Governors*, 109, 121-25, 134-35; Norman E. Tutorow, *Leland Stanford: Man of Many Careers* (Menlo Park, Calif.: Pacific Coast Publishers, 1971), 52-56; Spencer C. Olin, *California Politics, 1846-1920* (San Francisco: Boyd & Fraser Publishing Company, 1981), 30; William Issel and Robert W. Cherny, *San Francisco, 1865-1932: Politics, Power, and Urban Development* (Berkeley and Los Angeles: University of California Press, 1986), 120; Becker, *Reflections*, 12.

19. Curry, *Blue Book*, 640; Olin, *Politics*, 31; Issel and Cherny, *San Francisco*, 207; John W. Dwinelle, "Address to the Supreme Court of California," printed in "Address Delivered by Rev. Rodney L. Tabor at the Funeral of Henry Huntley Haight, Sept. 4, 1878" (San Francisco: Francis and Valentine, 1878), 18.

20. J. N. Bowman, "Preservation of the State Archives," *California Historical Society Quarterly* 28 (1949): 143-49.

21. State Librarian, compiler, *Descriptive List of the Libraries of California* (Sacramento: Board of Trustees of the State Library, 1904), 7, 12; *Journal of the Legislature, 1st Session*, 56, 96-97; Hugh S. Baker, "Public Libraries in California," *California Historical Society Quarterly* 38 (December 1959); Hurt, *Government*, vol. 1, 42.

22. Hurt, *Government*, vol. 1, 36-39, 43; John Swett, *Public Education in California* (New York: American Book Company, 1911), 154, 170; Roy W. Cloud, *Education in California* (Stanford: Stanford University Press, 1952), 24, 38, 40-42.

23. Hittell, *History*, vol. 4, 162-64; Hurt, *Government*, vol. 1, 43, 107-109, 113; "State Asylum for the Insane," *Hutchings' California Magazine* 9 (September 1859), reprinted in R. R. Olmsted, ed., *Scenes of Wonder and Curiosity from Hutchings' California Magazine, 1856-1861* (Berkeley: Howell-North, 1962), 369-71.

24. Hurt, *Government*, vol. 2, 95-104; Gerald Nash, *State Government and Economic Development* (1964; reprint, New York: Arno Press, 1979), 114-16, 215.

25. Nash, *Development*, 208; Hurt, *Government*, vol. 2, 34-35.

26. Hurt, *Government*, vol. 1: 77-78, 199; vol. 2: 77, 151-52; Curry, *Blue Book*, 692-95; Nash, *Development*, 68-69.

27. Nash, *Development*, 161-62, 179-80, 182-83, 189-90; Curry, *Blue Book*, 639; Hurt, *Government*, vol. 1: 121, 123, 216; vol. 2: 117.

28. Nash, *Development*, 98-103.

29. Nash, *Development*, 351-57; Johnson, *Founding*, 237-39; James Bryce, *The American Commonwealth*, 3d ed., vol. 2 (New York: Macmillan, 1897), 373-74. This essay on "officialdom" includes nothing on the contributions of women to California government because during these years, denied suffrage, they were virtually invisible, except in the field of education, where some became school principals; Jeanne Carr became deputy to her husband, School Superintendent Ezra Carr. Toward the end of the period, some women were employed as government clerks or secretaries. Clara Shortridge Foltz of San Jose drafted legislation to eliminate gender and racial discrimination for admission to the legal profession, which became law in 1878 after she lobbied the governor for his signature. See Joan M. Jensen and Gloria Ricci Lothrop, *California Women: A History* (San Francisco: Boyd & Fraser Publishing Co., 1987), 23, 44; and Cloud, *Education*, 61.

7

None Could Deny the Eloquence of This Lady"

Women, Law, and Government in California, 1850-1890

Donna C. Schuele

Although women played no direct role in California law and politics until 1870, both their interest in law reform and their later entry into the political arena can be traced in part to two sections of the constitution that went into effect at statehood in 1850, one excluding women from the franchise and the other purporting to grant wives liberal property rights. Around 1870, California women joined their eastern sisters in organizing for suffrage rights and began seeking as well a more equitable implementation of the constitutional guarantee to marital property rights. This chapter will explore the circumstances that led California women to become involved in law reform, and their persistent fight over the next twenty years for equal political, property, and occupational rights, waged of necessity within the masculine arenas of law and politics.

WOMEN IN THE FORMATION AND DEVELOPMENT OF STATE GOVERNMENT

The Constitutional Convention of 1849

While the inaugural constitution excluded women (and nonwhite men) from suffrage, it did grant married women certain property rights by providing that "All property, both real and personal, of the wife, owned or claimed by her before marriage and that acquired afterwards by gift, devise or descent, shall be her separate property, and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property."¹

At the point when California's constitutional convention met, in 1849, two very different systems of marital property law were in force across the United States. One, operating most notably in Louisiana and Texas, could be traced to the civil law of European continental countries, including Spain and France, which had governed these regions before the United States acquired them. California, as a Spanish (and then Mexican) territory, was also governed by this system. In the civil law, a woman's status was unaffected by marriage. Both spouses retained separate ownership of all property acquired prior to marriage, while property acquired during marriage through the efforts of either spouse was considered to be owned by the marital community, in which each spouse held an equal interest. Upon the death of either spouse, this marital property, known as common or community property, was kept intact and managed by the survivor, after which it descended to the couple's heirs. Spouses had testamentary power over only their separate property, yet they had equal power, as wives were allowed to execute wills. Under the community property system, the spouses' contributions to the marriage were equally valued, and widows exercised real power over marital property.²

The other system, holding sway in most American jurisdictions, was an outgrowth of the common law of England and was part of that system's law of coverture. Under these rules, a woman's legal status changed dramatically upon marriage. She became invisible in the eyes of the law, her identity subsumed under (or covered by) that of her husband. Lacking a legal identity, a wife could not own property. Consequently, the husband acquired ownership of any property the wife brought to the marriage and owned as well any property (such as wages) that her efforts might produce during the marriage. In exchange, a wife was given limited rights in a set portion of the husband's property, known as dower rights, regardless of the duration of the marriage or how or when the property was acquired. These rights could not be defeated by the husband during his lifetime or by will, but they were meant only to protect a wife in her widowhood.³

By the mid-nineteenth century, the law of coverture concerning marital property was coming under attack for its harsh treatment of women as well as its inability to guard families against financial ruin stemming from a husband's debts. By the 1850s and 1860s, a preferred avenue of reform emerged from the state legislatures that involved giving married women specific rights over certain property, designated as their separate property, through the passage of Married Women's Property Acts (MWPAs). These statutes treated the wife as if she were unmarried for the purpose of rights to her inheritances, gifts, and, later, wages, but otherwise left the system of coverture intact. In the context of the nineteenth-century world of separate spheres, where wives rarely worked outside the home, MWPAs were more effective in protecting women from intemperate or unfortunate husbands in an increasingly commercial economy than in empowering them as individuals.⁴



in the mining town of Big Oak Flat in Tuolumne County, Lucinda Stocking watches while her husband and his partners take a break from working their long tom to pose for his 1856 daguerreotype. Though often scarce in the gold country, women found employment as cooks, innkeepers, teachers, stagecoach drivers, entertainers, merchants, and miners. The letters of Mary Ballou, a New Hampshire woman who managed a boarding-house in a mining district near Sacramento, delineated the many tasks she was forced to perform to scrape together her living expenses, including washing, ironing, cooking, placer mining, and raising hogs. "Sometimes I am taking care of Babies and nursing at the rate of fifty dollars a week," she told her sons, "but I would not advise any Lady to come out here and suffer the toil and fatigue that I have suffered for the sake of a little gold—neither do I advise anyone to come." *Courtesy Oakland Museum of California, gift of Concours d'Antiques.*

However, in the years just prior to California's constitutional convention, Louisiana's legal system gained attention from common-law jurisdictions such as New York, leading these jurisdictions to toy with embracing the civil law's concept of joint ownership of property acquired as a result of efforts by either the husband or the wife. Ultimately, these jurisdictions settled for the more limited MWPA's, partly in order to avoid eroding the husband's exclusive rights to his earnings, but not before the issue was extensively debated.⁵

It was within this complex context that the California constitutional convention confronted the issue of married women's property rights in 1849.⁶ Referencing property "held in common," the proposal put before the delegates was borrowed nearly verbatim from the Texas state constitution, and it differed little from that which had been rejected in New York.⁷ Paradoxically, the provision could at once be understood as a static retention of the law inherited from Spain and as a dynamic reform of the law of coverture in force in most of the United States. While one representative of a district primarily populated by native-born Californios praised the proposal for protecting settled expectations in joint property rights born of indigenous law, another delegate opposed the measure as an unwise departure from common law. Recently arrived from New York, he sought to alert fellow delegates to the radical potential of female joint property ownership:

I have lived some years in countries where the civil law prevails, and where such a separate right of property is given to the wife. If there is any country in the world which presents the spectacle of domestic disunion more than another, it is France. There the husband and wife are partners in business, raising the wife from head clerk to partner. The very principle is contrary to nature and contrary to the married state.⁸

However, his dire warning was ignored, as the debate shifted to the issue of the wife's separate property. It seems that most of the delegation read the proposal as calling for a reformed common-law system that would accord the wife limited rights without impinging on the husband's interests in property he acquired during the marriage, notwithstanding the provision's joint property language and the fact that the common law governing marital property had never been in force in California.⁹

In addition, the debates failed to settle the purpose of the provision—whether to protect women or empower them. One delegate predicted the difficulties that the new state would encounter if families were left to their own devices in the volatile gold-rush economy: "Any cool, dispassionate man, who looks forward to California, as she will be in five years to come, who does not see that wildness of speculation will be the characteristic of her citizens, is not, I think, gifted with the power of prophecy. I claim that it is due to every wife, and to the children of every family, that the wife's property should be protected."¹⁰ But another representative, responding to the keenly felt scarcity of marriageable Anglo-American women in California, promoted the provision as empowering women and thereby encouraging their emigration: "Having some hopes that I may be wedded . . . I shall advocate this section in the Constitution, and I would call upon all the bachelors in this convention to vote for it. I do not think that we can offer a greater inducement for women of fortune to come to California. It is the very best provision to get us wives that we can introduce into the Constitution."¹¹

In sum, the discussion indicated that the measure could be, and was, read in



Members of the Peralta family relax on their front porch in Alameda County, ca. 1856. Under Mexican law, Spanish-speaking California women enjoyed the right to testify in court, inherit property on an equal basis with male siblings, and own land (about sixty and grants went to women). After the American conquest, Californianas faced discrimination based on their gender as well as their language and race. Nineteenth-century American common law forbade married women to own land in their own name and limited property inheritance mostly to male offspring. *Courtesy Peter E. Palmquist.*

three very different ways: most simply, as requiring the retention of indigenous law; more complexly, as adopting civil law rules of joint property ownership in order to effect far-reaching reform of inequitable common-law principles; or, least controversially, as no more than part of the growing eastern-based trend toward limited common-law reforms. Within each of these interpretations, the measure appeared more or less empowering, more or less protective, of women. Nevertheless, a consensus emerged whereby the constitutional guarantee of married women's property rights was viewed as a progressive enactment boldly distinguishing the Golden State from eastern jurisdictions struggling to emerge from the grips of antiquated notions of law and patriarchy.

Development of Married Women's Property Rights

Unfortunately, the unfocused and incomplete discussion at the convention provided little guidance for translating the constitutional guarantee of property rights for wives into a comprehensive, workable statutory scheme. The common-law sensibility that reigned during the first legislative session squelched the progressive intentions of the convention. In complete derogation of the express constitutional guarantee, and contrary to Spanish or Mexican law, the Anglo-American-dominated legislature gave the husband full lifetime control over both the common property and the wife's separate property, and even prohibited the wife from willing her separate property. Yet the new law remained faithful to the historical and theoretical bases of the community property system by continuing the Spanish-Mexican practice of leaving the common property intact during the lifetime of the surviving spouse, and calling for a fifty-fifty division of the common property upon divorce, without regard to fault.¹² In these ways, the system appeared to recognize the spouses' equal ownership rights in the marital community.

However, according the wife an ownership interest in property an Anglo-American husband considered himself alone to have earned would not survive in an increasingly commercial, wage-based economy where a woman's appropriate place was in the home. In 1857, the legislature ended equal, no-fault division of common property upon divorce by granting judges certain discretionary powers. Meanwhile, the state Supreme Court and the legislature worked in tandem to accord the husband, but not the wife, testamentary control over half of the common property. Eliminating these indications of equal right to the common property allowed the Supreme Court eventually to conclude that the wife's interest in the common property was nothing more than a "mere expectancy," which would mature into a legally protectable right only if and when she survived her husband.¹³

The ramifications of these changes, added to the control already given to husbands, were staggering for married women. Already, a husband was not precluded from disposing of his wife's separate property during his lifetime. Now, with the husband considered the full owner of the common property, he was free to dispose of any or all of it during the marriage, thereby leaving the wife penniless at his death. And while the wife's death had no impact on a widower's rights to the common property, the husband's death was what triggered the widow's rights. Not only did the wife's right to half of the common property mature upon her husband's death, but a widow could gain the other half of the common property only through her husband's testamentary generosity. Consequently, a widow had to submit herself to the onerous probate process in order to gain title to any of the common property. More generally, with their ability to exercise control over their separate property severely restricted and their claim to the common property denied, California wives



Actress Adah Isaacs Menken, photographed here ca. 1863, enjoyed a degree of freedom and fame unknown to most nineteenth-century women. Born in New Orleans to a French mother and an African American father, Menken traveled to San Francisco in 1863 as the star of the melodrama *Mazeppa*, during the course of which she seemingly stripped to the nude (actually a flesh-colored bodysuit) and rode offstage on horseback. The *Sacramento Union* complained, "Not an actress, she is an exhibition—a voluptuous experiment on American taste for amusement. And it pays." Menken married and divorced often, danced, painted, wrote poems, traveled widely, and reportedly won the friendship of Mark Twain, Bret Harte, Joaquin Miller, Charles Dickens, and Alexandre Dumas. *California Historical Society, FN-19626.*

witnessed the withering of the legal concept of the marital community, where the lifetime contributions of spouses were equally valued.¹⁴

By 1870, the marital property system, intended as a reform, actually rendered California wives worse off than their eastern sisters, who were protected in their dower rights and were increasingly benefiting from the enactment of MWPA's that served to segregate other property from the husband's control.¹⁵ California's system did nothing to empower wives, did little to protect families, and in fact, blatantly violated the state's constitution. As it happened, whether women would be able to battle these legal inequalities would come to depend on their ability to mount an organized fight in the political arena.

CALIFORNIA WOMEN PRESS FOR EQUAL RIGHTS

Organizing for Equal Rights

In July 1869, a small cadre of women established the San Francisco Woman Suffrage Association (SFWSA). This triggered a statewide movement, resulting in the formation of the California Woman Suffrage Association (CWSA) six months later. The membership of California's suffrage societies—white, Protestant, and middle class—mirrored groups forming in other parts of the country. However, the broad platform of the California movement, calling for economic, marital, occupational, and political rights, set it apart from the national movement, which had begun to narrow the broad focus expressed in the 1848 Seneca Falls Declaration of Sentiments to the single issue of suffrage. California reformers' extensive agenda resulted from two interconnected factors that distinguished women's experience in the Golden State during the 1850s and 1860s: pervasive labor-market discrimination and the significant influence of Spiritualism.¹⁶

From the outset, California's subsistence frontier environment drove many Anglo-American female émigrés, middle class included, into the employment market, and finding work was especially difficult in San Francisco's volatile economy.¹⁷ Beginning in the mid-1850s, a few women, armed with their own printing presses, began publishing newspapers and magazines geared toward a female audience, in which they increasingly commented on gendered employment discrimination. Hitting closest to home were the antics of the all-male San Francisco typographical union, which waged a vicious battle to exclude female typesetters from the higher-paying jobs. As a result, female publishers spearheaded the formation of a women's cooperative printing enterprise, one of the earliest organizational efforts by California women.¹⁸

But recognition of labor-market discrimination alone would not have led to the adoption of a women's rights platform extending beyond suffrage. Another crucial impetus came from the influence of Spiritualism, a religion founded around the same time and place as the Seneca Falls convention in 1848, which embraced indi-

ridualism and empiricism in a way that propelled its adherents toward a radical social program dedicated to female equality and autonomy.

During the antebellum period, Spiritualism, women's rights, and radical abolitionism were closely intertwined. However, during the 1860s, the course of women's rights within abolitionism and Spiritualism began to diverge. In the East, the women's rights movement developed in reaction to abolitionists' post-Civil War fight for suffrage for the freedman, causing its agenda to narrow to female voting rights. In California, meanwhile, with abolitionism never taking root and Spiritualism holding particular appeal, Spiritualism's broad view of female emancipation came to be reflected over the next twenty years in the multifaceted agenda of the state's women's rights movement.¹⁹

Spiritualism also played a crucial role in the development of women's movement leadership in California. Spiritualist direction was provided by mediums, female as well as male, who were called to the position by the spirits. With no church in which to preach, mediums employed public meeting places, allowing them to address the faithful and skeptics alike. At a time when the issue of female public speaking was dividing the abolitionist movement, female mediums authoritatively addressed large gatherings, and by the 1860s, the most successful Spiritualist lecturers in San Francisco were women.²⁰ One of America's foremost trance speakers, Laura de Force Gordon, came to California in 1867, a few months later delivering the first speech dedicated to the topic of women's rights.²¹ The connection between Spiritualism and public support for women's rights grew to the point where nearly all of the founding members of the SFWSA had ties to Spiritualism.²²

In the 1860s, individuals, many of them Spiritualists, began to urge support for female enfranchisement in general circulation newspapers, although mainstream women's publications continued to espouse support for equal occupational rights only.²³ Finally, in January 1869, newspaper owner and Spiritualist sympathizer Emily Pitts Stevens stepped forward to proclaim her commitment to women's political equality as well, dedicating her weekly publication, renamed the *Pioneer*, to advancing a broad equal rights agenda.²⁴

Although ties to Spiritualism proved uniquely advantageous for the development of California's women's rights movement, they came to have negative ramifications as well, causing dissension and division between the movement's more radical and more conventional adherents during the 1870s. From the start, the CWSA wrestled with whether to affiliate, if at all, with the Stanton-Anthony National Woman Suffrage Association (NWSA), which insisted on female leadership and espoused suffrage rights guaranteed by the federal constitution, or the Stone-Blackwell American Woman Suffrage Association (AWSA), with its inclusion of male leadership and a more conservative, state-based approach.

The San Francisco Spiritualists' sympathies rested with the more radical NWSA,



Feminist and Spiritualist Laura de Force Gordon emigrated to California in 1867, where she spent the remainder of her life toiling for women's suffrage as a lecturer, lawyer, and newspaper editor. In 1870 she stood before the state legislature and called for a "true democracy" where "white and black, red and yellow, of both sexes, can exercise their civil rights," one of the earliest public appeals for equal rights for women in the American West. Gordon helped found the California Woman Suffrage Association in 1870 and nine years later became one of the first women admitted to the state bar. She also helped draft a clause added to the 1879 California constitution guaranteeing women the right to pursue any "lawful business, vocation or profession." In 1883 Gordon became only the second woman admitted to practice before the U.S. Supreme Court. She died in Lodi in 1907, her dream of women's suffrage in California still unrealized. *Courtesy California State Library.*

while the city's Unitarians favored the AWSA. Trading on the support of the San Jose and Santa Cruz Spiritualists (who chafed under the San Franciscans' disproportionate influence), the AWSA sympathizers split off from the CWSA in January 1871. A little over two years later, the CWSA suffered another split, when radical Emily Pitts Stevens and her supporters ousted a more conservative Spiritualist male leader who had attempted to tar the Stevens faction with charges of support for free love (a perennial thorn for Spiritualists, with their trenchant critique of traditional Victorian marriage).²⁵ While the organized movement survived, Spiritualist influence was driven underground to such a degree over the next decade that no mention of this unique factor was made in the first account of the rise of the California women's rights movement, published in the mid-1880s by Stanton and Anthony.²⁶

Yet, enough California suffrage leaders rose above these organizational disruptions to carry on the task of law reform, with a broad-based and interconnected agenda shaped by early Spiritualist influences and women's labor-market experience.

The Campaign for Political Rights

With the organization of suffrage societies gaining steam across the state in late 1869, optimism ran high that female voting rights could be achieved quickly, notwithstanding a general consensus that enfranchising women would require a difficult two-step process of first enacting a measure calling for a referendum to amend the state constitution and then gaining voter support for the issue.²⁷ Over three thousand signatures (more than half from men) were gathered on suffrage petitions presented to the legislature in January 1870, and in 1872, petitions totaling five thousand signatures, including that of former governor Leland Stanford, were submitted.²⁸ In both sessions, the most eloquent of the activists were sent to address lawmakers, nearly all having honed their public-speaking skills as Spiritualist mediums. Of Laura de Force Gordon's speech in 1870, one Sacramento newspaper reported, "none could deny the eloquence of this lady. . . . The Senate Chamber has heard nothing superior. There was a hush universal in this place during the hour she consumed speaking[,] . . . discussing questions of constitutional and parliamentary law with an ease and familiarity which many of the most potent, grave and reverend Senators could themselves have envied."²⁹ In the following session, when known rabble-rouser Emily Pitts Stevens addressed the legislators, another local newspaper praised her speech as "Pitts-Stevenism in the best style of the art. She railed against class legislation, walked the stand, and in an off-hand, defiant way told the audience a good many wholesome truths."³⁰

The speakers advanced both rights-based and expediency arguments for the vote, viewing suffrage as just one part of an integrated agenda for equal treatment of men and women.³¹ To correct the multitude of wrongs visited upon women, one speaker implored, "give us the ballot, the key to all civil rights, and *it* will



Leland Stanford, photographed here ca. 1863 with his wife, Jane Lathrop Stanford, helped found the Republican Party in California and became its first Republican governor in 1862. In the 1870s he signed petitions to the state legislature supporting women's suffrage. *California Historical Society, FN-07381.*

address them, for the root of them all is the fact that man claims the right to be our representative."³² Others focused on women's civic obligations, ranging from tax-paying to motherhood, as the basis for extension of suffrage.³³ Attacking the worn argument that the right to vote flowed to men as the result of military duties, heirs alone, one speaker slyly asserted that "it was rather too much to ask women to bear soldiers and arms also."³⁴

In both 1870 and 1872, special legislative committees, established to consider women's rights petitions and bills, argued in favor of female enfranchisement. The 1872 committee cleverly attempted to mute criticism by playing down the boldness of its position, going so far as to assert that nothing about woman suffrage was "either of a revolutionary character or in opposition to the spirit and genius of Government." At the same time, it tried to curry support by appealing to the Golden State's progressive reputation. Both committees recommended passage of the suffrage bills before them, but the measures stalled in both houses before reaching a vote.³⁵

In 1874, however, activists achieved a related goal—declaring women eligible for seats on school boards and as superintendents. After the officeholding bill was introduced, three women, led by Sallie Hart, an outspoken San Francisco public school teacher, devoted six weeks of "indefatigable efforts" to lobbying the cause in Sacramento. Perturbed by her effectiveness, one senator complained of Hart "going from seat to seat, like some blazing comet, shaking a kind of fascination from her whirled hair."³⁶

Detractors viewed the measure as an opening wedge for suffrage and questioned the constitutionality of nonelectors holding educational offices. Supporters meanwhile appealed to women's particular suitability to oversee children's schooling and promoted the bill as merely declaratory of rights already held, given that the state constitution had virtually nothing to say about female officeholding. Interestingly, the proposal was also advocated as one to advance men's rights, specifically to elect officeholders of their choice. In truth, the bill probably passed thanks to the support of pragmatic lawmakers who understood how difficult it was becoming to persuade good men to run for these minor school offices and to treat the positions as more than just stepping stones to higher office.³⁷ Further indicating that practical, rather than ideological, concerns carried the day was the fact that legislators seemed untroubled by the irony that women would nonetheless be precluded from casting a ballot for these same educational offices.

In subsequent sessions during the 1870s, the legislature avoided the suffrage issue by resorting to the excuse that a constitutional convention would soon be called, where the question could be better addressed. By the time this occurred, in 1878, anti-Chinese sentiment had reached a fever pitch in California. Many Caucasians, as well as some members of other racial groups, were determined to keep those of



San Francisco-based reformer Marietta L. Stow helped form the California Woman Suffrage Association in 1870 and worked throughout the late nineteenth century for a variety of causes, including racial and gender equality, probate law reform, and communitarianism. She refused to wear the "long, uncouth drangling bag called a dress skirt," preferring instead a dress-trousers hybrid of her own design, shown here. In 1884, independent-minded Stow became the first woman ever nominated for vice president of the United States, in her case by the tiny National Equal Rights Party. *Courtesy Oakland Museum of California.*

Chinese descent from exercising any rights of citizenship, especially suffrage. In this light, white women's votes had the potential to counterbalance those of Chinese men. As a result, progressive delegates who genuinely supported women's rights were lobbied by opportunistic representatives to force extensive consideration of the issue.

While in one sense, then, the timing of the convention was advantageous for women, in another it occurred too late in the decade. By 1878, the infrastructure of California's organized women's rights movement, established earlier in the decade, had deteriorated. Rivalries and internal dissensions had taken their toll, no doubt. But more important, the lobbying efforts expended over eight years on a range of issues had worn down activists already taxed by family and other responsibilities. This led to the absence of an organized lobbying force at the convention, causing some delegates to wonder whether women really desired suffrage. Local Sacramento women finally sprang into action, but they were unwilling to do what was necessary to make an impact in the few short weeks before the convention adjourned. Believing that the original movement had foundered because of overly radical behavior and beliefs, these women refused assistance from experienced lobbyists, considering overt persuasion unladylike. The convention ultimately rejected woman suffrage, with even sympathetic delegates fearing that a provision extending the franchise might imperil ratification of the new constitution.³⁸

In the wake of missed opportunities and defeat, veteran suffragists reevaluated the postconvention political landscape and concluded that the legislature would refuse to place a referendum before the electorate so soon after ratification of the new constitution. Consequently, in the 1880s, activists turned from their commitment to universal suffrage toward the alternative goal of partial suffrage, which they maintained could be achieved through a majority vote in the legislature without resort to constitutional amendment. In some forms, limited suffrage would grant women the right to vote in school and/or municipal elections, while in other forms it would grant only taxpaying women the right to vote.

School suffrage seemed a natural starting point, given that women were now avidly running for educational offices. A bill to that end was lobbied and heavily debated in 1880, coming close to passage in the Assembly before the session closed. In 1881, the CWSA reappeared as an organized force, submitting numerous petitions and seeing to it that three school suffrage bills were introduced, but by then the issue had become mired in questions of constitutionality.³⁹

By 1883, the organized movement had again faded, while the legislature appeared to be growing weary of the suffrage issue, pressed this session by Laura de Force Gordon alone. Some lawmakers called for a popular referendum, but only so "the vexed question" would be settled."⁴⁰ No suffrage measures were presented again until 1889, when Gordon pressed a revised version of the 1883 school suffrage bill. She lobbied it to passage in the Assembly, but the proposal foundered in the Senate,

again as time ran out. In nearly twenty years of agitation, this was the closest the legislature ever came to passing a woman suffrage proposal.⁴¹

Advocating for Property Rights

Marital property law reform vied with suffrage as the most sought-after goal of the California women's rights movement in the 1870s and 1880s. Founding suffragists were keenly aware of the system's failure to treat marriage as a partnership in which each spouse's contribution was equally valued. Many leaders themselves had experienced the unfairness of California's scheme, having been denied equal treatment upon widowhood or divorce, the sting made greater for those who had helped to support their families financially while married. Given that marital property reform, "being within the province of ordinary legislation," could be granted without resort to a constitutional referendum, advocates could hardly be faulted for believing that statutory change in this area was quite achievable.⁴²

Reformers were most concerned with repairing the damage that flowed from the California Supreme Court's determination that wives had no lifetime interest in the common property, that their interest was nothing more than a "mere expectancy."⁴³ They particularly sought to equalize the treatment of widows and widowers and to end the probate system's control over the widow. In doing so, activists might have argued that the law ought to be returned to its Spanish-Mexican roots, or even that such a return was constitutionally required. Instead, they drew upon the joint property rhetoric that had developed in the East beginning in the 1840s—the same arguments that had propelled New York lawmakers to consider adopting a community property scheme.⁴⁴ However, unlike back East, in California activists did not have to push for an altogether new system in order to gain joint property rights. Instead, they faced the seemingly easier task of convincing the legislature to fulfill the purpose of the plan already in place.⁴⁵

Addressing representatives in Sacramento in 1872, Nettie Tator, a law-trained Santa Cruz suffragist, forcefully staked out the wife's claim to the common property:

When a man and his wife commence life poor, and struggle along together in the acquirement of property, by good right half of that property and whatever income accrues from it is hers. But does she get it? No! And if she dies he continues on just the same with all his business relations . . . ; while on the other hand, if he dies, she cannot do anything until the property has been administered upon by law. . . . You say this is necessary to protect the interest of her children. Who, I ask, looks after the interest of children more closely than mothers do?⁴⁶

In 1876, the recently widowed Marietta Stow emerged to repeat Tator's charges as part of an iconoclastic but far-reaching reform crusade motivated by her personal experiences. According to Stow, the San Francisco probate bench and bar had conspired

WOMEN VOTE

for

PRESIDENT

and for all other officers in all elections
on the same terms as men in

Wyoming, Colorado,
Utah and Idaho

WHY NOT

in

CALIFORNIA?

Times Publishing Co. Palo Alto, Cal.

In 1869, Wyoming became the first American territory to extend suffrage to women, and Colorado, Utah, and Idaho followed by 1896. "Why not in California?" asked this turn-of-the-century suffragist poster. However, Californians emphatically voted down a women's suffrage amendment in 1896; ironically, the strongest opposition came from San Francisco and Oakland, two of the state's most progressive cities throughout the twentieth century, because their residents correctly feared that female voters would favor prohibition. California finally enfranchised women by initiative in 1911, the culmination of more than forty years of feminist activism. *Courtesy Bancroft Library.*

to rob her of her husband's \$200,000 estate.⁴⁷ To advance her cause, Stow penned a polemic, entitled *Probate Confiscation*, which included her perspective on wives' status under California law:

[T]here is no such thing as a partnership relation in the marriage union. . . . [I]n wedlock woman is still a slave. . . . She cannot use a dollar of the common property which she has helped to earn, without the husband's consent. . . . You may say that making the wife a legal partner will embarrass and cripple the business transactions of the husband. . . . Nothing but recognition of the importance of the wife's consent will lift her out of the position of a legal nonentity.⁴⁸

For all of the force of Tator's and Stow's rhetoric, however, their words hinted at an entrenched belief that would prove to be the major roadblock to marital property reform.

The legislative process began promisingly enough when, following Tator's speech in 1872, the Assembly's special committee on women's rights came out in favor of the equalization of marital property law. The members did so on the basis that the wife's contribution to the marital community deserved to be equally valued and equally rewarded. However, its wholesale acceptance of the Victorian ideology of separate spheres led the committee to characterize the wife's contribution as noneconomic.

According to the committee, the wife contributed to the marriage through "embellishment of the home, . . . the cultivation of her mind, the refinement of her taste, and the protection of her health," which would allow her to "bear . . . well formed and beautiful and healthy children," whom she would properly raise, "and thus honoring [her husband's] name, transmit it to the future untarnished." The committee contended that the contributions of the spouses were equal unless, it posited rhetorically, "money is more valuable than the mind of man, and coin than character."⁴⁹

However, in the later nineteenth century, in an increasingly commercial economy, this rhetoric proved to be far from convincing. In its anxiousness to declare the value of wives' noneconomic contributions, the committee nonetheless seemed to realize its inability to refute the argument that an economic contribution was in fact more valuable and thereby granted the husband a greater claim over the common property. As the committee itself put it, "he earned it by virtue of his own persona, foresight, enterprise, perseverance and business energy, and . . . therefore it belongs to him."⁵⁰

Beyond this entrenched belief that the wife did not truly earn any portion of the common property, another stumbling block to reform proved to be the difficulty attendant with drafting bills that would achieve equal treatment but still mesh with California's complex and contradictory marital property scheme. The first bill to address unequal treatment regarding the common property, possibly drawn up by the San Jose offshoot of the CWSA, simply gave all the common property to the sur-

ving spouse. The measure passed the Assembly quickly with no debate in 1872, but undered in the Senate as time ran out.⁵¹

In 1876, Stow drafted a bill equalizing the rules of property distribution upon death of either spouse and giving the survivor broad administrative powers meant to lessen the confiscatory involvement of the probate court and attorneys.⁵² However, her proposal was never introduced in either house; working outside of the channels of the organized women's movement probably undercut her influence in Sacramento.⁵³ Instead, the two bills that were introduced during that session were probably drafted by CWSA stalwart Sarah Wallis. Thrice married, Palo Alto-based Wallis had successfully supported herself and a son after being abandoned by one husband, and eventually wed a women's rights sympathizer who served in the state Senate in the 1860s.⁵⁴ Her bills proposed to equalize the spouses' claims over the community property, but by reducing the husband's rights to the level of those of the wife. Again, debate centered around the issue of whether the wife had fairly "earned" any rights to that property. No surprise, both the Senate and Assembly Judiciary committees recommended against passage, and the measures died.⁵⁵

In 1881, Wallis returned to the strategy of stepping up rights for widows to the level of those enjoyed by widowers, this time seeking out citizen support. With the issue of marital property reform lacking the simple appeal of the suffrage question, as early as 1869 activists had enlisted the help of sympathetic male attorneys and judges to educate eastern-bred émigrés regarding the complexities and inequities of the state's community property law and rally them to the cause.⁵⁶ In 1876, Stow herself had traveled California to alert wives to the dangers ahead as widows, widely circulating four editions of her book and giving newspaper interviews.⁵⁷ Now Wallis canvassed the state, collecting more than ten thousand signatures on petitions calling simply for passage of "an Act to confer upon the wife the right to succeed to the community property on the death of the husband."⁵⁸

Six bills of varying effect were submitted over three sessions, in 1880, 1881, and 1883. Although they all proposed to improve the wife's position vis-à-vis the common property, not all guaranteed equal rights. Those that bore Wallis's imprint suffered from poor drafting and failed to advance in 1880 and 1881. Then, in 1883, an elegant proposal was introduced, calling for the repeal of the particular statute governing the widow's rights to the community property, and making the statute governing the widower's rights gender neutral. Yet, it too went nowhere after the Assembly Judiciary Committee recommended against passage. The only bills receiving favorable committee treatment were the two of most minor effect, seeking to improve but not equalize the widow's rights in the common property, and these bills were probably introduced to draw support away from Wallis's measures.⁵⁹

Following these setbacks, the author of the 1872 special committee report, John M. Lys, returned to Sacramento as a senator in 1885 and renewed his call for equal



Clara Shortridge Foltz, widowed at a young age with five children to support, moved to San Jose in 1872 hoping to establish a law practice. In 1879, she and Laura de Force Gordon became the first women admitted to the University of California's Hastings School of Law and successfully opened the state bar to women. In addition to her groundbreaking legal career, Foltz worked as a newspaper editor, women's suffragist, and penal reformer. *Courtesy Bancroft Library.*

treatment for the wife and widow, proclaiming that the present state of the law, denying married women an interest in the community property, constituted "an injury to the children, a robbery to the wife, and a disgrace to the statutes."⁶⁰ Days introduced a measure similar to both his 1872 bill and the 1883 proposal, to equalize the claim of the surviving spouse to the common property. Membership on the Judiciary Committee failed to gain Days a favorable review for his bill, but it allowed him to sue a blistering minority report.⁶¹

Continuing to wrestle with the entrenched belief that the wife did not deserve to share equally in the community property because it "was earned by the husband . . . and . . . therefore it belongs to him," Days now discarded romantic notions about the marriage relationship in favor of acknowledging the wife's *economic* contribution:

Who does not know that hundreds of wives in California have not only performed the household duties . . . , but have actually done as much as the husband in earning the means of livelihood, and more, in saving and acquiring the community property? Who does not know that hundreds of wives in California, by their skill, industry, affection and love for their husbands and families, not only acquire the community property but support children and husbands besides.⁶²

Days doggedly moved his bill toward passage, but time ran out before it could come up for a vote on the merits, these efforts closing out reform attempts for that decade.⁶³ Instead, his success in the Assembly in 1872 continued as the high-water mark for equalization of the survivorship interest in the common property.

However, activists were more successful in achieving for wives full control over their separate property, albeit almost accidentally, and due more to eastern influence than any recognition of the civil law's treatment of separate property. Charged by the legislature with codifying California statutory and common law, a commission of prominent attorneys unveiled a Civil Code in 1872 that included a provision giving the wife the power to manage her separate property. Its insertion in the draft of the Civil Code most likely reflected both the increasing popularity of MWPA's and the fact that the codification movement began in New York. Reform of the wife's separate property rights became law with no active intervention from female activists, as the legislature adopted the Civil Code in total, with virtually no debate. Nevertheless, suffragists widely publicized the reform, and when a repeal attempt was made in the next session, activists rushed to Sacramento and successfully lobbied for its retention.⁶⁴

The Fight for Occupational Rights

During the 1870s and 1880s, activists sought not only political and marital-property rights for California women, but occupational rights as well. Advocating not special treatment but a level playing field, reformers targeted appointive offices and other government employment, public school teaching, and law practice. The movement's

strategy was circumscribed by the times, as there were fewer appropriate points for government intervention in the labor market in an era of laissez-faire political economy. However, activists seemed to realize that the legislature could be more willing to step in when government itself caused or contributed to the particular occupational inequality. Interestingly, lawmakers were more receptive to women's demands for equal occupational treatment than they were to demands for equal political or marital rights, as women secured, in less than a decade, constitutional protection of the right to pursue any lawful occupation free from gendered restrictions.

Responding to the dearth of women in government employment, sympathetic legislators in 1870 pushed colleagues to accord women greater opportunities. However, barriers to women's participation in this labor market were not directly law related, as few if any regulations prohibited women from holding appointive office or other paid government employment. This led some lawmakers to question the appropriateness of legally sanctioned "encouragement," and others to contend that supporters were actually seeking preferential treatment that would lead to a requirement to hire women. The measure was ultimately rejected as an unwarranted governmental intrusion into the employment marketplace. Later, when a proposal was introduced into the constitutional convention to designate particular government positions for women, such as state librarian, the measure was given no consideration.⁶⁵ Lawmakers were apparently unwilling to enact proposals that could lead, in today's parlance, to a set-aside or quota system.

On the other hand, in the one area of public employment where women had gained a foothold, school teaching, state legislators were willing to remedy and preclude unequal treatment originated by local government. When the San Francisco school board instituted a system of unequal pay within the school levels, female teachers in the city became emboldened to seek salary equalization not just for themselves, but for public school teachers statewide. Led by Sallie Hart, educators descended on Sacramento during the 1872 and 1874 sessions, leading an opponent to complain sarcastically, "We must take our lessons, rules and orders from these young ladies who have been teaching perhaps six months, perhaps nine months, and as soon as they get a husband quit."⁶⁶ Nonetheless, the San Franciscans' lobbying was positively received overall, as the teachers succeeded, with little debate or dissension, in gaining first city- and then state-level protection against unequal salaries at elementary schools.⁶⁷

Yet, the legislature was less amenable to remedying the exclusion of women from the legal profession, an unequal treatment mandated by state law. The United States had a long-standing tradition of local and state-based regulation of the legal profession, and in California, women's exclusion was accomplished by way of a statute restricting bar membership to white males. However, with control over entrance into the profession far less formalized and centralized than it is today, by the 1870s



The University of California, chartered by the state legislature in 1868, admitted its first female students two years later. Three UC Berkeley coeds pillow fight in their dormitory in this photograph, ca. 1900. *Courtesy Bancroft Library.*

women in California and elsewhere began studying under sympathetic male lawyers and then seeking admission to the bar nonetheless. When denied, these women drew on their legal training to fight back. Elsewhere would-be lawyers brought suit for admission, most famously Myra Bradwell of Illinois, who took her case all the way to the United States Supreme Court in 1873.⁶⁸ In California, women uniquely turned to the legislature.

Although California lawmakers had given some consideration to women's bar membership as early as 1872, the issue was not pressed in earnest until Laura de Force Gordon and Clara Shortridge Foltz decided to seek admission in 1878. Both divorced women with dependents, they had determined that the practice of law would allow them to provide more lucratively for their families. Rather than seek redress from the courts, Foltz and Gordon decided to lobby the legislature to change California's restrictive statute, an unprecedented move. With the impending constitutional convention, the women's rights movement spent little time that session lobbying the suffrage issue or marital property reform, thus leaving the field open for Gordon, a veteran suffragist, newspaperwoman, and lobbyist, and Foltz, a more recently arrived suffragist, to push their agenda.⁶⁹

San Jose-based Foltz drafted what became known as the "Woman Lawyer's Bill"

and had her district's senator, who was sympathetic to women's rights, introduce it early in the session. Attending the proceedings as a newspaper reporter, Gordon was in a unique position to advance the bill. Assisted by other suffragists, the would-be lawyers astutely garnered statewide support from members of the bar, especially prominent attorneys. Although the bill passed handily in the Senate, Foltz and Gordon had to navigate a variety of institutional hurdles in the Assembly, thrown up most ungallantly by attorney lawmakers.⁷⁰ According to one legislator, final consideration of the bill was full of drama: "The fight came on this afternoon, and a real lively time it was, so far as parliamentary tactics were concerned. I never knew before how much pluck and energy there was in a woman—how they could urge their claims, plead for the privilege of making the battle of life—for such our friend Mrs. Foltz did, gently and eloquently."⁷¹ The measure passed by a margin of two votes and was signed by the governor literally in the waning minutes of the session, only after additional lobbying by Gordon and Foltz.⁷²

Realizing, however, that this hard-fought victory could be snatched away by any subsequent legislature, Foltz and Gordon wasted little time celebrating their victory. With the constitutional convention opening a scant six months after the Woman Lawyer's Bill was enacted, Foltz and Gordon took advantage of the chance to safeguard their investment in a legal career by constitutionalizing their right to practice law. They drafted a provision which stated simply that no person would be disqualified from entering into or pursuing "any lawful business, vocation or profession on account of sex," and demonstrated once again a talent for navigating the political arena, by having their proposal introduced late in the convention, in place of an unrelated provision that had been voted down. Whether delegates at that point were feeling the need to make up for having denied numerous other provisions of benefit to women, or simply didn't notice the substitution, the new measure was accepted without debate as part of a package of miscellaneous articles. Upon ratification of the new constitution, California women ostensibly became protected from gender-based discrimination in their choice of occupation.⁷³

However, even while seeking these reforms, activists believed that, ultimately, it was the vote that would be the key to eliminating barriers to women's occupational equality. Addressing the predicament of those women who lacked a male breadwinner, Nettie Tator in 1872 argued that the only realistic remedy was "to open the doors to every honorable employment to woman; giving her equal chances with man, and equal pay for the same labor." But, Tator proclaimed, "*this will not be done until the ballot is put into her hand to compel it.*"⁷⁴

Over the course of twenty years of agitation, reformers were most successful in achieving occupational rights for women; they scored one victory in securing political rights and were thoroughly disappointed in their efforts to correct marital prop-

there was no corresponding need for women's votes; men were not averse to casting their ballots for school offices. And while, as it later turned out, women's enfranchisement failed to give rise to expected reforms, the perceived symbolic value of woman suffrage was enough at this time to prevent the enactment of female voting rights.

Reforming California's marital property system so as to give real force to the notion of joint property rights threatened to reach beyond the public and symbolic sphere into the private lives of husbands and wives. Granting the wife rights at the expense of the husband over property he felt he alone had earned—rights that would survive her death, rights that would empower and not merely protect her—was a far more radical proposition than that which was offered to eastern women through MWPA's, which provided wives with separate rights to property they would have owned had they remained unmarried. In the 1870s and 1880s, California legislators proved hostile to these reforms, even when they would have been in the interest of a state operating with a volatile economy and offering little in the way of a system of social welfare to aid its most vulnerable citizens.

NOTES

1. California Constitution, article 11, section 14 (1849). For the suffrage provision, see article 2, section 1.

2. See William Q. deFuniak, *Principles of Community Property*, vol. 1 (Chicago, 1943). There is no comprehensive exposition of the community property system, particularly as it existed historically, written for laypersons. However, treatment of the subject can be found in Carole Shammas, Marylynn Salmon, and Michael Dahlin, *Inheritance in America from Colonial Times to the Present* (New Brunswick, N.J., 1987), and Helen S. Carter, "Legal Aspects of Widowhood and Aging," in *On Their Own: Widows and Widowhood in the American Southwest, 1848-1939*, ed. Arlene Scadron (Chicago, 1988), 271-300.

3. For a description of the rules of coverture and their operation from colonial times through the antebellum period, see Marylynn Salmon, *Women and the Law in Early America* (Chapel Hill, 1986); Norma Basch, *In the Eyes of the Law: Women, Marriage, and Property in Nineteenth-Century New York* (Ithaca, 1982), esp. ch. 2; Joan Hoff, *Law, Gender, and Injustice: A Legal History of U.S. Women* (New York, 1991), esp. pp. 82-90, 106-16.

4. Regarding Married Women's Property Acts, see Richard Chused, "Married Women Property Law: 1800-1850," *Georgetown Law Journal* 71 (1983): 1359-1425; Hoff, *Law, Gender and Injustice*, 121-24, 127-35, 187-91; Basch, *In the Eyes of the Law*, esp. chs. 5 and 6. Regarding the concept of separate spheres, see Barbara Welter, "The Cult of True Womanhood, 1820-1860," *American Quarterly* 18 (1966): 151-74.

5. Regarding New York's consideration of civil law, see Peggy Rabkin, "The Origins of Law Reform: The Social Significance of the Nineteenth-Century Codification Movement and Its Contribution to the Passage of the Early Married Women's Property Acts," *Buffalo Law Review* 24 (1974): 683-760. Regarding New York and Wisconsin, see James W. Paulsen,

Community Property and the Early American Women's Rights Movement: The Texas connection," *Idaho Law Review* 32 (1996): 660-67.

6. The text of the debate is set forth in J. Ross Browne, *Report of the Debates in the Convention of California, on the Formation of the State Constitution, in September and October, 1849* (Washington, D.C., 1850), 257-69. For further discussion of the debates, see Donna C. Schuele, "Community Property Law and the Politics of Married Women's Property Rights in nineteenth-Century California," *Western Legal History* 7 (1994): 248-60; Susan Westerberg Prager, "The Persistence of Separate Property Concepts in California's Community Property System, 1849-1975," *UCLA Law Review* 24 (1976): 8-24; Donald E. Hargis, "Women's Rights: California, 1849," *Southern California Quarterly* 37 (1955): 320-34; and Ray August, "The Spread of Community Property Law to the Far West," *Western Legal History* 3 (1990): 45-66.

7. Regarding the New York-Texas-California connection, see Paulsen, "Community Property," and Donna C. Schuele, "'A Robbery to the Wife': Culture, Gender, and Marital Property in California Law and Politics, 1850-1890" (Ph.D. diss., University of California, Berkeley, 1999), 42-44.

8. Browne, *Debates*, 258, 261.

9. Prager, "Persistence of Separate Property Concepts," 10-11.

10. Browne, *Debates*, 258.

11. *Ibid.*, 259.

12. For further discussion regarding the initial enactment of community property law in California, see Schuele, "Robbery to the Wife," 57-72; Prager, "Persistence of Separate Property Concepts," 25-34.

13. For further discussion of the development of California community property law in the 1850s and 1860s, see Schuele, "Robbery to the Wife," 72-100; Prager, "Persistence of Separate Property Concepts," 34-49.

14. Schuele, "Robbery to the Wife," 57-100; Prager, "Persistence of Separate Property Concepts," 25-49.

15. Prager, "Persistence of Separate Property Concepts," 28.

16. For further discussion of the rise of an organized women's rights movement in California, see Schuele, "Robbery to the Wife," ch. 3; Roger Levenson, *Women in Printing: Northern California, 1857-1890* (Santa Barbara, 1994), esp. chs. 4-6; Reda Davis, *Woman's Republic: The Life of Marietta Stow, Co-operator* (San Francisco, 1969), 201-32.

17. See JoAnn Levy, *They Saw the Elephant: Women in the California Gold Rush* (Norman, Okla., 1992), 92-103.

18. See Levenson, *Women in Printing*, chs. 4 and 5; Robert J. Chandler, "A Woman Printer Battles an All-Male Union," *The Californians* 4 (1986): 44-47.

19. Regarding the connection between Spiritualism and the women's rights movement, particularly in California, see Ann Braude, *Radical Spirits: Spiritualism and Women's Rights in Nineteenth-Century America* (Boston, 1989), esp. chs. 3-5 and conclusion; Robert J. Chandler, "The Van: Spiritualists as Catalysts for the California Women's Suffrage Movement," *California History* 73 (1994): 189-201.

20. Braude, *Radical Spirits*, 84-98, 193-95.

21. Elizabeth Cady Stanton, Susan B. Anthony, and Matilda J. Gage, eds., *History of Woman Suffrage*, vol. 3 (New York, 1886), 751.

22. Braude, *Radical Spirits*, 193.

23. Schuele, "Robbery to the Wife," 109-12.
24. Regarding Emily Pitts Stevens, see Levenson, *Women in Printing*, ch. 6; Sherilyn Cox Bennion, *Equal to the Occasion: Women Editors of the Nineteenth-Century West* (Reno, 1990).
25. For further discussion of the dissensions within the California women's movement during the 1870s, see Schuele, "Robbery to the Wife," 134-61.
26. This account is contained in Stanton, Anthony, and Gage, *Woman Suffrage*, vol. 3, 751-65.
27. During this time, California women also took part in the New Departure strategy, whereby women attempted to vote, or at least register to vote, on the basis that the newly ratified Fourteenth and Fifteenth Amendments to the federal constitution conferred suffrage on women as well as the freedmen. See Schuele, "Robbery to the Wife," 326 n. 224.
28. "Petition for Woman's Suffrage. In the Senate, March 2, 1870," in Women's Rights Pamphlets, Bancroft Library, University of California, Berkeley; State of California, "Report of Special Committee in Relation to Granting Women Political Equality," in *Appendix to Journals of the Senate and Assembly*, 19th sess., 1871-72, no. 3.
29. "Woman-Suffrage. The Meeting in the Senate Chamber," *Pioneer*, March 19, 1870, at 1 (reprint from the *Capital Reporter*).
30. "Woman Suffrage Meeting," *Sacramento Weekly Union*, March 16, 1872, at 8.
31. For further discussion of the types of arguments advanced in support of woman suffrage, see Aileen S. Kraditor, *The Ideas of the Woman Suffrage Movement, 1890-1920* (New York, 1981), esp. ch. 3.
32. "Plea on Behalf of Woman-Suffrage, before the Assembly Committee, Sacramento, California. March 18, 1870," *Pioneer*, April 2, 1870, at 2.
33. Regarding taxpaying as the basis for the right to vote, see Carolyn Jones, "Dollars and Selves: Women's Tax Criticism and Resistance in the 1870s," *University of Illinois Law Review* (1994): 265-309; Linda K. Kerber, *No Constitutional Right to Be Ladies: Women and the Obligations of Citizenship* (New York, 1998): 81-120.
34. "Woman Suffrage Meeting," at 8.
35. "Report of Special Committee," 5; Schuele, "Robbery to the Wife," 173-74, 193-94.
36. "The Education Bill," *San Jose Weekly Mercury*, February 26, 1874, at 2; "Sacramento," *San Francisco Chronicle*, February 18, 1874, at 3.
37. Schuele, "Robbery to the Wife," 208-15.
38. Regarding the battle over woman suffrage in the 1879 constitutional convention, see Barbara A. Babcock, "Clara Shortridge Foltz: Constitution Maker," *Indiana Law Journal* 66 (1991): 879-94; Schuele, "Robbery to the Wife," 259-88.
39. Schuele, "Robbery to the Wife," 296-309, 316-21.
40. *Senate Journal*, February 17, 1883, at 211.
41. Schuele, "Robbery to the Wife," 358-59. Regarding woman suffrage efforts in the 1890s, particularly the referendum battle of 1896, when the issue was narrowly defeated, see Susan Scheiber Edelman, "A Red Hot Suffrage Campaign: The Woman Suffrage Cause in California, 1896," *California Supreme Court Society Yearbook* 2 (1995), 49-131; and Gayle Gullett, *Becoming Citizens: The Emergence and Development of the California Women's Movement, 1880-1911* (Chicago, 2000), 83-84, 93-106.
42. "Report of Special Committee," 3.
43. Regarding the development of the "mere expectancy" doctrine in California commu-

ity property law, see Prager, "Persistence of Separate Property Concepts," 34-39; Schuele, "Robbery to the Wife," 77-84.

44. For further discussion of the use of joint property rhetoric within the women's rights movement, both in the East and West, see Reva Siegel, "Home as Work: The First Woman's Rights Claims Concerning Wives' Household Labor, 1850-1880," *Yale Law Journal* 103 (994): 1073-1217.

45. Schuele, "Community Property Law," 264, 271-72.

46. "Address of Mrs. Nettie C. Tator before the Joint Committees of the Senate and Assembly of the State of California on the Subject of Extending the Right of Suffrage to Women, Sacramento, March 13, 1872," in Women's Rights Pamphlets, Bancroft Library.

47. For further discussion of Stow's experiences with the probate of her husband's estate and her efforts to reform California law, see Schuele, "In Her Own Way: Marietta Stow's Crusade for Probate Law Reform within the Nineteenth-Century Women's Rights Movement," *Yale Journal of Law and Feminism* 7 (1995): 279-306.

48. Marietta L. Stow, *Probate Confiscation; or, the Unjust Laws that Govern Women* (reprint, New York, 1974), 232-33.

49. "Report of Special Committee," 10.

50. *Ibid.*, 3, 5, 10.

51. Schuele, "Robbery to the Wife," 193-94.

52. Stow, *Probate Confiscation*, 13-14.

53. Regarding Stow's relationship to the California women's rights movement, see Schuele, "In Her Own Way," 281.

54. Regarding Sarah Wallis, see Dorothy Regnery, "Pioneering Women: Portraits of Sarah," *The Californian (Magazine of the California History Center, De Anza College)* 8 (1986): 6-8.

55. Schuele, "Robbery to the Wife," 235-38.

56. For further discussion regarding the rise of legal consciousness among California women in the 1870s, see Schuele, "Community Property Law," 263-67.

57. Schuele, "In Her Own Way," 285-86.

58. Printed petition form entitled "Petition for Equal Rights," Laura deForce Gordon collection, Bancroft Library; Schuele, "Robbery to the Wife," 310, 316-18; Schuele, "Community Property Law," 276.

59. Schuele, "Robbery to the Wife," 309-11, 318, 321-22, 337-38.

60. *Senate Journal*, January 26, 1885, at 142.

61. Schuele, "Robbery to the Wife," 339-40, 343-47.

62. *Senate Journal*, January 26, 1885, at 142-43.

63. Schuele, "Robbery to the Wife," 347-50.

64. *Ibid.*, 194-203, 218-20. For further discussion of the influence of the codification movement on California marital property law, see Schuele, "Community Property Law," 260-71.

65. Schuele, "Robbery to the Wife," 177-78, 292.

66. "Sacramento," *San Francisco Chronicle*, March 14, 1872, at 1.

67. Schuele, "Robbery to the Wife," 179, 216-17.

68. *Bradwell v. Illinois*, 83 U.S. 130 (1873); Schuele, "Robbery to the Wife," 242-45. For further discussion of women's entrance into the legal profession, see Virginia Drachman, *Sisters in Law: Women Lawyers in Modern American History* (Cambridge, Mass., 1998).

69. Barbara A. Babcock, "Clara Shortridge Foltz: 'First Woman,'" *Arizona Law Review* 30 (1988): 613-717; Schuele, "Robbery to the Wife," 242-44.
70. Babcock, "First Woman," 686-94; Schuele, "Robbery to the Wife," 240-41.
71. "A Victory in California," *Woman's Journal*, April 20, 1878, at 124.
72. Babcock, "First Woman," 692.
73. Babcock, "Constitution Maker," 894-99; Schuele, "Robbery to the Wife," 292-94.
74. "Address of Mrs. Tator," 12.

The Beginnings of Anglo-American Local Government in California

Edward Leo Lyman

California local government in the Anglo-American period did not get off to a particularly auspicious start. For a short time during the United States military occupation and thereafter, some of the Hispanic institutions, especially the office of *calde*, a position that existed in many localities, mainly in northern California, continued in effect. This office combined legislative, judicial, executive, and law enforcement functions in one person. But there was little patience among newcomers with the lack of separation of powers and checks on the power inherent in the position, and the rapidly increasing throng of citizens from the United States demanded prompt instituting of offices and procedures with which they had more confidence. Sometimes this impatience ran roughshod over existing officials and the rights of people who had been in the region much longer. Yet in an amazingly short time the structure and functions of local government as they would continue to operate were successfully established throughout the state.

In southern California the transition from the Mexican forms of local government to that of the United States was sufficiently gradual to be generally less painful for Spanish-speaking residents, who supposedly were assured full rights of citizenship by the recent Treaty of Guadalupe Hidalgo, than was often the case in northern California. In the huge Los Angeles County, which in 1850 stretched east to the Colorado River and into what would later become southern Nevada, the first county Court of Sessions met June 24, 1850, with Augustin Olivera serving as presiding judge.¹ Since he could not speak English and at least one of the associate justices knew no Spanish, G. Thompson Burrill, who was also the sheriff, was appointed county interpreter at an additional salary of fifty dollars per month. By June 1852, the state legislature had provided for a five-member county commission or board of supervisors in a few of the larger counties, including Los Angeles. There



Los Angeles plaza, photographed here in 1865, served as a public meeting place and civic center during both Mexican and American control of the region. Though dwarfed by San Francisco to the north, Los Angeles grew steadily throughout the nineteenth century, attracting merchants and homesteaders with its hospitable weather and rich soil. James Clarke, a lawyer who headed to Los Angeles in the mid-1850s after failing to establish a practice in northern California, reported that "Our Climate is that of France yet we have every Tropical production in abundance," including "Oranges, Sweet & Sour Limes, Lemons, figs, prunes, Citron, Peaches, Pears, Apples, Grapes, Quince, Olives, etc. etc." *Courtesy, Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*

the positions were first occupied by two men with Hispanic surnames and three with Anglo-American names, including Jefferson Hunt, representing the new Mormon settlers at San Bernardino.²

The process of Americanizing the predominantly Hispanic population of the California southland was no easy task even without the aggressiveness prevailing farther north. This was partly because the existing laws were in a chaotic condition and partly because most Latinos understood neither the language nor the customs of the new rulers. And many Anglo-Americans residing there had but little patience for the older Mexican ways of conducting law and government. Maintaining peace and harmony between the two groups required a tact difficult to attain on either side. Fortunately, there were a few crucially placed individuals who assisted immeasurably in bridging the gaps.³

In Santa Barbara, Colonel Benton, of the occupying army, questionably—bu

with some fairness—issued a private manifesto assuring Hispanic residents that they were now American citizens with a constitutional right to help make laws for themselves. The first county government there went into effect in August 1850, a month before California statehood, with Joaquin Carrillo as county judge. Eugene Ries, formerly of New York, was appointed interpreter and translator. Some confusion under the new system arose because several elected officials were not qualified for their tasks and never actually occupied the offices. The majority of potential voters had long been accustomed to deferring to the directions of a few patriarchs of powerful families. The son of one of these, Joaquin de la Guerra, at first refused to relinquish his records from the old Mexican Court of First Instance. He probably held the new system in contempt and was demonstrating his disregard in this manner. But his brother, Pablo, who inherited a large measure of the trust and prestige enjoyed by the family, was supportive of and fully involved in the new government. First marshal for the southern district, then state senator and president of that body, he eventually served as lieutenant governor of California. Pablo also served as mayor of Santa Barbara and was elected to the county's first board of supervisors. In these positions, and less officially, he gradually taught his Latino countrymen the importance of trusting the courts for settlement of issues, while also encouraging others to be patient and considerate during the transition period. Always a conciliator and advisor, he later served as district judge. During the American Civil War he was a powerful advocate for the Union cause in the region.⁴

Probably even more significant in this transition process was Benjamin I. Hayes, who had arrived in southern California from Missouri in late 1850. A devout Catholic who was fluent in Spanish, he not only served as the first Los Angeles County attorney, but also helped translate into Spanish the initial statutes enacted by the California legislature. In 1852, Hayes was able to generate widespread support for his successful candidacy for judge of the district, which included San Diego and soon the new San Bernardino County. He was equally cordial with Latino, Mormon, and Southern Democratic segments of the region's population, and his consistent fairness and commitment to helping accomplish true assimilation immeasurably enhanced progress in that direction.⁵

Another who contributed immeasurably to better relations between Anglo newcomers and Mexican Americans in the California southland was Andrés Pico. This former Californio cavalry officer and brother of the last Mexican governor led the most effective posse of more than forty men, primarily Hispanic, in successful pursuit of the Juan Flores gang, which in January 1857 had ambushed and killed Los Angeles sheriff James Barton and several of his men. The Pico brothers' examples of friendship and cooperation with their new neighbors significantly enhanced the accommodation process.⁶

An example of how a typical California county initially organized is El Dorado



Pablo de la Guerra, a powerful ranchero and civic leader from Santa Barbara, adapted to the changes wrought by the American conquest of California better than most Spanish-speaking residents. The son of influential Californio patriarch José Antonio Julián de la Guerra y Noriego, Pablo learned English, won title to his family's lands, and served in the California Senate. *California Historical Society Collection at the University of Southern California: Title Insurance and Trust Photo Collection.*

ounty, in the center of the gold fields. In May 1850, the Hon. Vinal Daniels, presiding judge, had given notice for all fifteen justices of the peace functioning within the county to gather at the county seat, Coloma—especially appropriate, as Coloma was where gold had first been discovered two years before, thus sparking the great influx of Anglo-Americans that had occurred in the region. The stated purpose of what was called a “convention of justices of the peace” was to select two of their number to serve as associates with Judge Daniels on the County Court of Sessions. They elected William Rolfs and Henry Waldo, who immediately commenced functioning as the first official government of the new county. Each of the original counties, and a few soon created, was governed by such a body, which originated as a derivative of English common law in the colonial American period. Other states and territories then getting started, including Utah, utilized the same system. The California legislature soon adjusted this governmental structure by providing boards of supervisors with broader functions. The associate justices of the early courts of sessions were certainly not full-time positions. In El Dorado County, Rolfs and Waldo were paid sixteen dollars per day for the six days they served on the court in their first three weeks in office. Judge Daniels, who performed some administrative duties and conducted much of the judicial business of the county, apparently received the seemingly generous sum of a thousand dollars per month salary for closer to full-time work.⁷

The subjects addressed in the first months of the El Dorado County Court of Sessions are doubtless typical of many other more heavily populated counties in the early period. Immediately pressing were the claims for services rendered during the first state elections, particularly by precinct judges. Virtually all of the huge leather-bound record books still extant in the region contain numerous pages of claims by persons seeking such remuneration. The court promptly instituted a countywide poll tax of three dollars per person, certainly to recoup the funds just dispersed for election purposes. Since the supervisors later served as a canvassing board attesting to the validity of elections within their county, the courts of sessions probably also functioned in this manner. Similarly, funds were immediately allocated for grand jurors and witnesses involved in court proceedings.

One of the most demanding early functions of these county governments was construction and maintenance of roads and bridges. There had been some of each built and operated elsewhere in the earlier Mexican period, but hardly any in the newly settled mining country. Even prior to commencement of official government operations at the local level there were numerous entrepreneurs among the miners—there had been in the East and among emigrants coming west across the plains—building toll roads and bridges to operate as private businesses. Again, El Dorado County illustrates this situation with literally dozens of individuals and partnerships applying for licenses to conduct such enterprises. Invariably, bonds were re-

quired to assure faithful compliance, and rates were specified, providing for recouping construction costs and some profits.⁸ Most toll bridge contracts were renewed annually, although spring floods undoubtedly discouraged and dissolved more than a few such ventures. John F. Little and original gold discoverer James W. Marshall operated several toll bridges on branches of the American River and naturally asserted their rights to protect those businesses. In one case, they successfully enjoined William Riley and James McKee from further operation of a ferry in competition with their bridge at Coloma. Little was less successful in his protest against another bridge license being granted with the same rates as theirs just a mile upstream from the one he and his partners operated at Salmon Falls.⁹

In a similar manner, franchises were frequently granted for toll roads, some operated until after the new California constitution went into effect in 1879, but usually for a much shorter duration. Except where maintenance costs were exceptionally high, within just a few years, county officials declared most of these to be public highways, sometimes designating a committee to determine which of the several existing roads through a given area should be favored with continual maintenance. Occasionally there were later grants of permission to build additional public roads to places of special need, sometimes "provided that [the appointed supervisors urging such roads] perform said service [constructing them] without compensation from the county." More frequently the Court of Sessions responded to petitions from interested citizens for a specific new road to be considered by appointing the advocates to work with the county surveyor to "look over" the proposed route and lay it out in the most efficient manner before reporting back to the county officials, usually at the next month's sessions. Within a year after the Board of Supervisors took over the primary functions of governing El Dorado County, it acted to prevent ill-conceived petitions for opening new roads by ordering a deposit to defray all expenses for laying out such roads. If the county actually proceeded with construction, the funds were reimbursed, but if the investigation process determined the proposed road to be unfeasible, the money deposited "would be appropriated to the payment of the costs of surveying and locating said road and in reporting thereon." Doubtless this curbed many, but not all, requests for new roads.¹⁰

Usually, when a particular road was declared a public highway, a county road supervisor was appointed and a road district created. All able-bodied men residing in a given district were required to work two to four days each year maintaining the roads, if notified to do so by their district supervisor. Very soon, counties allowed persons so assessed to pay the road tax in cash rather than labor. In Nevada County and many others this fee amounted to four dollars per annum, with the road supervisors authorized to grant receipts for that year's road tax, specifying whether it had been paid in money or labor. Accounting for the totals of each category was a prerequisite for the supervisors' taking their own quarterly pay from the funds col-



downtown Auburn, shown in this idyllic 1876 drawing, housed Placer County's courthouse (right), constructed in 1854, and jail, built three years later. An iron bridge connected the buildings' second floors. A main supply center during the Gold Rush, Auburn prospered in subsequent decades thanks to the arrival of the transcontinental railroad in 1865. A handsome three-story domed structure built nearby replaced the gold-rush-era courthouse in 1898. *Courtesy Placer County Department of Museums.*

ected. They were also empowered to levy fines for noncompliance. Sometimes the supervisor was allowed to expend all taxes collected on the roads of his district, and sometimes a portion was paid into the county general fund. The road supervisors usually had an allocated number of hours of labor that had to be expended on their roads in any given quarter, themselves doing whatever work was not accomplished through tax-levied labor. They were also responsible for making emergency repairs and for pointing out future projects needed. This system persisted, at least in the more rural areas of the state, well into the twentieth century.¹¹

Another original function of county government was granting licenses for other business enterprises. The right to sell liquor in quantities of less than one pint was usually granted for periods of up to six months at rates varying with the volume of

business. In El Dorado County, for example, the Marshall House Hotel at Coloma had to pay thirty-five dollars for two months, while a tavern in Placerville was charged just thirty dollars for six months and a store in Georgetown paid fifteen dollars for three months. What were called in some places "auctioneer's licenses" were usually granted for one year, allowing permission to conduct business in retail sales of merchandise. The fact that this obligation to pay fees for business operation was accepted virtually everywhere but San Francisco is no compliment to early businessmen of that city.

By early 1852 there was already a state general hospital functioning at Stockton, which was converted in July 1853 to an asylum solely for the insane. Outside larger cities, there appears to have been little, if any, official acknowledgment of responsibility for most indigent ill persons until after formation of boards of supervisors in the smaller counties in 1855. Certainly, private funds were known to have been raised and expended for such purposes. Among the first to address the need for care of the indigent ill were El Dorado County officials, in the spring of 1854. They allocated funds to individuals for boarding and medical attendance for several poor and sick persons, including the burial expenses for at least one who died. By the end of the year, they had created a special county indigent sick fund, with persons in the various population centers designated to care for those in that qualifying category in their areas. Soon after, Calaveras County supervisors specified that only "regular" physicians within the county could submit proposals for care and maintenance of the indigent sick, including furnishing a "substantial building" for that purpose. About that time, Nevada County officials also contracted with physicians in three towns each to provide medicine and attendance, along with board and lodging, for such persons in their vicinity.¹²

By the mid-1850s, the state legislature provided funds for the indigent sick, and county treasurers drew at least partly on state money for that purpose. El Dorado County consolidated its services, which had been provided by eleven individuals, by contracting with two Placerville physicians at just over a thousand dollars per month "for taking care of and providing for the indigent sick of the county." A committee investigated the facility and reported that the "subjects [were] properly cared for," hearing no cause for complaint. Later, the operating fee was raised to \$3,750 per quarter, with the managers posting adequate bond. These arrangements were similar in other counties throughout the period. About a decade later, Nevada County paid Dr. R. M. Hunt eighty-five cents per day for each person placed in his charge. That county was at the time levying a tax of fifteen cents per one hundred dollars of assessed property valuation specifically for its indigent sick fund, besides funds still coming from the state. In Amador County, Samuel Page was paid seventy-five dollars per month to furnish medical care to the patients of the county hospital and jail. The monthly amount allocated by the county thereafter varied, probably with the

umber cared for, from a high of eighty dollars in 1868 to fifty-nine dollars in 1870. In Francisco, Sacramento, and perhaps some other more urbanized counties offered more extensive services, but overall, most had come to consider care for the indigent as a legitimate county function, a precursor of the later welfare system.¹³

Certainly the various county governments were not slow in levying the usual taxes, nor in directing either the county treasurer or sheriff to collect them. Frequently, notice was posted and published as to when the official would be in each given area for the purpose of receiving such taxes. For at least the less urban counties, the sheriff usually acted as tax collector for some state funds as well. Most made at least annual "statements of accounts" along with reports to state and county officers as to the amount of various taxes collected. For some years the supervisors so met occasionally as boards of equalization to adjust some tax assessments.

The foreign miners' tax enacted, repealed, and reenacted by the state legislature in the early 1850s caused the various counties to authorize "deputy collectors," allowing them to retain a percentage as personal fees for their service. El Dorado County had some difficulty determining what was proper in this regard. The law provided that the collector should receive 15 percent of the funds, but the judges of the Court of Sessions deemed this insufficient compensation and added another 10 percent, making the total one quarter of all money collected. Soon, the new Board of Supervisors cut the collection fee back to the original 15 percent, but almost immediately raised it to 22 percent. At least for a time, some counties had fond hopes that this questionable source of revenue would solve many of their fiscal problems. In the summer of 1853, El Dorado County allocated its share of the foreign miners' tax "for the payment of the current expenses of the county." It was also ordered that the county treasurer take any revenues from that source exceeding a surplus of five thousand dollars to be "used in the payment of outstanding county indebtedness."¹⁴

With so many local justices of the peace levying fines and other county officials handling various funds, it was not difficult to lose monies through negligence and misfeasance. Early in 1852, the El Dorado County Court of Sessions ordered the district attorney to institute suits against all magistrates who had received county funds and neglected to pass such money to the county treasurer, as required by a recent order. It directed that similar suits be aimed at "delinquent officers" holding funds belonging to the county. Later that spring the same officers complied with a grand jury mandate to appoint two men, presumably qualified in accounting, "to examine the public offices of the county and report to the court the following month." The auditors were charged to examine the "condition of the books and the fidelity with which county officers have discharged their duty." All was reported well regulated. In 1855, the supervisors of the same county appointed other auditors to examine the account books of an assessor who had just left office. They discovered deficiencies of

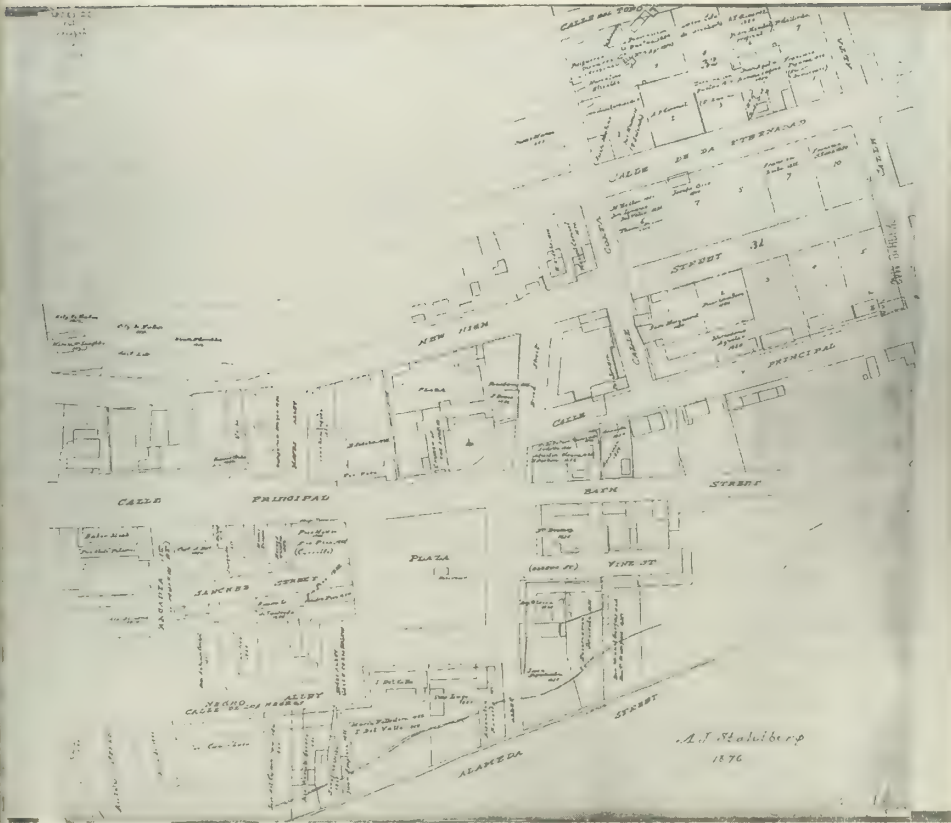
almost seven hundred dollars each to the county and the state. While these funds were ordered paid, there is no mention of further reprisals for the oversight.¹⁵

In San Bernardino's first year as a separate county, the Court of Sessions felt constrained to order a former member of that body, Louis Rubidoux, whose term had expired, to relinquish his docket books to the new justice of the peace, José Gallego. Later, the neighboring justice of the peace, Julian Trujillo, of the town of San Salvadore, was ordered to report and "account for all fines collected during his term of service." At that same time, the court refused to recognize the bill submitted by the county assessor, former mountain man Valentine "Rube" Herring, for sixty days' services performed. Having concluded that "there being no evidence of him being faithful in the discharge of his duty," the court allowed him only thirty-five days' pay at the rate of eight dollars per day. There were doubtless mitigating circumstances, since Herring had attempted to assess the undeveloped city lots of San Bernardino at a higher rate than the Mormon leaders of that community deemed fair. The majority of the county's Court of Sessions, also faithful Latter-day Saints, were clearly expressing the disdain of the church hierarchy toward the defiant assessor. Later, as the majority of dedicated Mormons were moving back to Utah, the San Bernardino County Board of Supervisors refused to recognize the full amount of rent assessed on rooms used for county purposes, paying a far lesser amount—perhaps for similar retaliatory reasons.¹⁶

One of the most complex matters undertaken by several county courts of sessions was funding earlier county debts. In the spring of 1853, the Tuolumne County court appointed a three-man board of fund commissioners to procure the necessary bonds to fund forty thousand dollars of county indebtedness. The board was directed to publish notice in the local newspapers to inform holders of warrants due from the county to present such bills, apparently with the option of either receiving cash payment or exchanging them for new bonds carrying a very high rate of interest. These days, many people have no idea of the interest rates that prevailed in the gold-rush era, but 3 and 4 percent interest per month was considered moderate, and most of the interest paid in connection with Tuolumne County's bonds over the subsequent years of the 1850s remained just under 90 percent interest annually.¹⁷

Nevada County, which had to cope with the loss of records when a new courthouse was destroyed by fire in the summer of 1856, called for those holding warrants against the county to present what evidence they had of the debt, with the Board of Supervisors clearly granting the benefit of the doubt. Early the following year, reconstruction costs compelled the board to order that a "sufficient amount of county warrants be sold at public auction at the court house . . . to realize the sum of five thousand dollars in cash" for the purpose of paying the cost of construction and repair.¹⁸

The year after California statehood, about five hundred Mormons from Deseret, Utah, emigrated to southern California and commenced establishing what became



J. Stahlberg drew this map of downtown Los Angeles in 1876, the year the Southern Pacific Railroad finally connected the city to San Francisco. Los Angeles's population would more than quadruple in the next decade, overrunning much of the Mexican presence evident in Stahlberg's map. *Courtesy Seaver Center for Western History Research, Natural History Museum of Los Angeles County.*

the largest Anglo-American community in the entire southland, San Bernardino. Los Angeles County granted the new citizens one of the five seats on the county board of Supervisors. Jefferson Hunt, well known in the region as the ranking church member in the so-called Mormon Battalion serving garrison duty at San Diego and Los Angeles at the end of the Mexican War, held that position. The county was already saddled with considerable debt, and the *Los Angeles Star* urged citizens to take advantage of new state legislation authorizing funding of such debts. In the fall election of 1852, in which Hunt was elected one of the state assemblymen, the Mormon voters helped defeat the proposition to fund the debt. It is likely they hoped to escape from the county before such action took place, assuming the refinanced obligations would be substantially larger than the existing one.¹⁹

By that time, another leading Latter-day Saint political activist, county judge Daniel M. Thomas, was circulating a petition requesting formation of a separate county. Early in the 1853 state legislative session, Hunt introduced the document and a bill authorizing the new county. The committee assigned to consider the proposal promptly recommended division, with no known opposition at any stage of the process (unlike the later San Bernardino County, which has resisted each time a segment of the county, still the largest in the state, has attempted similar division). The law passed on April 26, 1853, making San Bernardino one of the first nonoriginal counties in the state. The first act of the new Court of Sessions, headed by Thomas, was to appoint Hunt and fellow Mexican War officer Alden A. M. Jackson as a committee to confer with their counterparts from Los Angeles for the purpose of "apportioning the amount of indebtedness of Los Angeles chargeable to San Bernardino County." The new county's proportion of \$4,500 was certainly fair, and payments were made regularly at least in the years when the Mormons maintained control, through 1857. In that year the annual payment was \$844.41.²⁰

Even as the eastern segment of the county was essentially seceding, efforts were mounted once again to fund the Los Angeles County debt. This time a bill was submitted to the state legislature for that purpose. It passed and was signed by the governor, leaving the local steps of implementation mainly to the county clerk. He had to recall outstanding warrants, pay some, and replace the remainder with new ones payable at acceptable intervals and interest.²¹

Partly because the Latter-day Saints were such law-abiding citizens, and partly because such public affairs as probate courts were dominated through ecclesiastical officials, there was but a minimum of county government required in San Bernardino. There had been a jail contracted through another Mormon Battalion officer Jesse D. Hunter, at a cost of seven thousand dollars while the area was yet within Los Angeles County. It appears to have been the epitome of an inside pork-barrel arrangement. What adobe structure had been erected collapsed during a rainstorm. The building was never completed, and the community never had a jail during the six-year Mormon period. Prisoners, usually but not always "outsiders," were incarcerated from time to time in private apartments or a local hotel, with the property owners reimbursed for lodging and food provided. Similarly, there was no courthouse, with such business conducted at a hotel, the sheriff's residence, or the office building also used by the leading ecclesiastical authorities, Amasa M. Lyman and Charles C. Rich, with their clerk, Richard R. Hopkins, usually functioning in a like county capacity along with the district judge and others.

In commitment to education, even when it was an infant county, as before, San Bernardino emerged as an exemplary sector of the state. While still in a temporary camp as their leaders searched for a permanent location, the Mormons had conducted several schools under sycamore trees at the mouth of Cajon Pass. Similarly

When the Mormon settlers moved into their newly erected fort in San Bernardino, the corner covered by a tent served as a school. And the year they moved out of the fort and built at least a hundred individual residences, church officials, who also conducted most school affairs, including hiring teachers and establishing salaries, formulated plans for two adjacent adobe structures for schools to be erected near the center of town. Another school was already being conducted some miles south in an old building left over from a Franciscan attempt to establish a mission in the valley prior to 1834.

As late as 1855, these schools received no state funds, but they were expanding nevertheless. Residents of sectors some distance from the schools petitioned the Board of Supervisors to organize schools closer to them, and districts were promptly established at Warm Creek to the northeast, the mill district to the southwest, and that became Mt. Vernon due west, along with one some distance to the southeast of the San Geronimo Pass area. According to the most careful student of the subject, Hazel Miller Croy, this school system was at the time the best in the state by several measures. The percentage of school-age children enrolled and attending was the highest in the state, and the ratio of pupils to teachers was the lowest of those submitting such figures, which would have been at least the main districts at the time. While there are no comparative studies of the proportionate wealth that other communities expended on their schools, San Bernardino, with its poor grain harvests and large debt from its purchase of the former Lugo rancho, exhibited an impressive public commitment to its schools.²²

Most other California counties struggled with educational matters during the first years of statehood. Early in 1852, the *Los Angeles Star* chided that there were no public schools in that county and that many children were suffering from the negligence both city and county officials. Later that year the Board of Supervisors ordered a tax of three cents on each hundred dollars of assessed valuation for support of county schools, with the county assessor charged by state law to also serve as superintendent of such schools as were established. In 1853, the Los Angeles city common council resolved to support the movement, and three schools were established, some seeking state funds to enroll poor children. In 1854, Los Angeles mayor Stephen Foster made education his highest priority, complaining that three-quarters of the five hundred school-age children in the city still had no means of schooling. It was no better the next year, with the population growing rapidly. There were 1,191 school-age children in Los Angeles, El Monte, San Gabriel, and adjacent areas, and the *Star* alleged that not more than 150 of them were yet attending school. Half of these were in the largely former Texan community of El Monte. That year, A. H. Hoyt of the Methodist Episcopal church opened a school for boys, and Los Angeles city promptly made an appropriation enabling the proprietor to lower tuition substantially, but that did not help those families with no means at all for paying tuition.²³

According to the *Star*, by the end of 1855, a "brick school house" had been erected or purchased in Los Angeles, and the next year, four schools operated in the area. But in March of 1856, two of them closed for lack of funds, with the *Star* charging that officials had been too lavish in paying teacher salaries (\$125 per month instead of \$75) and renting some classrooms (\$25 instead of \$15). There were still two schools in operation on the predominantly Anglo-American west side of town, with children—mainly Latino—on the north side denied educational opportunities at least for the remainder of that school year. The next year, sixty school pupils of the "district school" conducted by Mrs. Hoyt were examined in the traditional public recitals along with an undisclosed number examined at a "female school" and a similarly unknown number at the "boy's school" directed by Mr. McKee.²⁴

Certainly the fact that so few children resided in the Mother Lode mining camps during the state's first few years helps explain the low priority of counties there assigned to educational pursuits. This was also partly the fault of the state legislature for being slow in mandating such matters. Finally, in 1854, some mining counties, including El Dorado, allocated a portion of their property tax for school purposes. Doubtless there had been by that time more of an influx of insistent mothers as well as potential pupils. The public school system thereafter commenced to expand and flourish in that section. In the next decade the county tax apportionment devoted to school purposes was more typically twenty-five to thirty cents on each hundred dollars assessed valuation. In that era, another phenomenon arose, particularly in mining districts where paying ore had played out, of older separate school districts consolidating into new ones as the population declined in some formerly booming areas.²⁵

Another of the first acts of the new San Bernardino County officials was to appoint several "judges of the plains," a carryover from the Hispanic period that remained fully operational in southern California for at least thirty years after statehood. A judge of the plains served a very important function in the livestock-raising region of the southland. It was this official's duty to call for cattle roundups and to be present at these annual or semiannual rodeos for cattle and *recojedas*, or gatherings of horses. His seat of justice was in the saddle, where he determined who the unmarked young animals belonged to, presumably by observing the brand or mark on the cow or mare offering milk to the animal in question. From his decision there was little appeal, and all stock-ownership disputes were settled before him. Most of the rules applying were probably never codified into state law, although the institution was recognized there. In 1850 there were a dozen judges of the plains acting in Los Angeles County at a salary of one hundred dollars each per year. Usually, as in San Bernardino County, each election precinct had its own appointed judge, functioning similarly to the urban justices of the peace. An act of 1857 gave these officials power to make arrests for stealing livestock.²⁶

Local officials were also soon charged to regulate the often controversial matter of water rights. In 1854 the California legislature enacted a law providing for a "board of commissioners . . . to regulate water courses" and apportion irrigation water, including authority for the construction of ditches. The San Bernardino County Board of Supervisors appointed three prominent Mormon men to those offices early in 1856, and that year they stood firmly against the wishes of Charles C. Rich of the Mormon hierarchy, deciding that their right to continuous use of Lytle Creek had lapsed through negligence and that non-Mormon claimants recently settled in the later community of Rialto possessed superior rights. They similarly intervened to prevent Rich and his associates from utilizing water south from the Santa Ana River when others had diverted that same stream flow earlier to lands on the opposite side of the river. These decisions remained crucial precedents in one of the first successful Anglo-American irrigation regions of the state and fully demonstrated the value of county water commissioners.²⁷

Unlike many other areas of the new state, San Francisco inherited little earlier hispanic governmental structure on which to build. The commercial settlement there had been dominated from the beginning by non-Latino merchants. Probably none of them was more influential than Samuel Brannan, who in the limited confines of this study will serve as a focal point on which to demonstrate the self-interested power often wielded by businessmen in this unfortunate period of the city's infancy. From the beginning of the Anglo-American era, Brannan's *California Star* probably overstated the amount of crime in the city, partly because Brannan supported a rival candidate to the person then serving as constable. After the gold-rush exodus from San Francisco to the mining districts, stimulated largely by merchant Samuel Brannan for obviously selfish reasons, there was little crime, because so few potential victims or perpetrators remained in town. But even later, with the influx of new population, the city almost ended the year 1848 without a murder, though one was committed on Christmas Day.

In the San Francisco legislative body, still called the ayuntamiento, member Brannan in October 1849 introduced a resolution that city-owned lots be sold at auction, supposedly to generate funds to build a hospital, city hall, and public wharves. Of more interest to him was the fact that individual officeholders purchased 120 such parcels largely near the waterfront, and he helped appropriate three hundred thousand dollars of the funds derived therefrom to construct the wharf in an area where land and other city officials held at least fifty lots. Certainly their inside information about the location of the wharf, as well as what lots were available, was an invaluable and questionable advantage in these transactions.

As the population and related problems of San Francisco mushroomed, the new state legislature enacted a charter providing for a typical mayor-council form of government with eight aldermen and eight assistant aldermen drawn from eight city

districts. An elected recorder served as police court judge, with powers similar to a justice of the peace. The marshal functioned as chief of police. John Geary was the first mayor, and though not often criticized, he amassed the considerable sum of two hundred thousand dollars in less than three years apart from his private business profits.²⁸ Within a year, the usually biased *Alta California*, with more than a little justification, denounced the government's "shameless profligacy" and "unblushing selfishness," which demonstrated "less public spirit than any other group of men that ever pretended to act for public good." The editor concluded that the officials "saw good in nothing that did not put money into their own pockets." Yet in this they were hardly different from their predecessors, who had almost never been criticized by the same newspaper.²⁹

San Francisco simply experienced in more concentrated form what was happening in other cities in the nation and elsewhere. Great social upheaval occurred as migrants from rural areas and a flood of foreign immigrants with alien value systems converged as a teeming horde. The machinery of government was suited for an earlier, more neighborly environment, and it would take many years for the proper adjustments to be made. Yet the city did have a regularly constituted governmental structure, and it will always remain debatable whether the drastic vigilante actions of 1851 and 1856 were justified. San Francisco's urban vigilante movements were unprecedented in the nation's history, although there was abundant similar activity that appeared more justified in places where organized governments were lacking.

In February 1851, prior to the first major outbreak of San Francisco vigilantism, the *Alta California* proposed that the city should eliminate more than sixty government positions and reduce the salaries of those remaining. This, the newspaper argued, could enable reduction in the expense of municipal government to a cost of some \$235,000 annually, instead of almost a million dollars. There was doubtless some waste and much profiteering in city government, but even as matters stood at that time, the police were not paid that month, which was not uncommon. (When they were paid, it was often in depreciated scrip rather than cash.) The critics of government did not yet resort to the allegation that crime and lawlessness were rampant in an effort to bring down the constituted government. But if there was such a condition, it might well have been partly the responsibility of the outside critics pressing unreasonably for economizing measures.³⁰

Certainly, among the greatest deficiencies of San Francisco municipal government in the early statehood period was the lack of adequate fire protection. As elsewhere, fire service depended on volunteer companies, whose members, upon hearing an alarm, dropped what they were doing and rushed to where their fire-fighting equipment was housed. Each company was largely independent of the others, although a chief engineer was sometimes elected to assure that the various segments

worked together. But often there was conflict and competition among the companies, even to the detriment of fighting fires. There were some efforts by firemen to get the state legislature to grant an official united fire department power to enforce rules and regulations at the fire scene and during fire alarms, but nothing came of the matter in the crucial period of 1851. Firemen also urged the creation of a fund to be used for the benefit of those injured on the job. Unfortunately, such ideas were contrary to the prevailing laissez-faire philosophies of the day, and it would take much more property loss and suffering before professionalization finally occurred, between 1864 and 1866.³¹

During the period from December 1849 to June 1851, the city was devastated by major fires. With hindsight, one might question the lack of any building or safety codes or restrictions on the use of flammable materials for rebuilding. Historian Kevin J. Mullen quotes a contemporary correspondent who warned that the risk of fire was great, with the town appearing to be "one great tinder box." Although some of the prisoners who were forced to confess transgressions during the vigilante activity admitted to incendiarism, Mullen asserts that despite all of the allegations, most of the fires were probably started by accident. In late February 1851, members of the fire companies held a public meeting at which they considered resigning and turning their engine equipment over to city officials. The expressed reason for their resignation was that each communication they sent to the common council "for sustenance of [the] fire department" had been disregarded even after four of the great fires had already occurred. Lack of attention to fire-fighting matters appears to be the epitome of poor governance, which was typical of the city during the era, no matter who was in power.³²

One of the main reasons for the fire companies' failure was that the water contained in the city's small cisterns was quickly exhausted during each conflagration. There were a few springs, rills, and wells scattered about the city, but no abundant reliable water supply. In early 1851, a private entrepreneur, Arzo D. Merrifield, proposed to spend more than \$750,000 to bring water from Mountain Lake, near Presidio, to various portions of the city. He also proposed installing sufficient fire hydrants and water pressure—whose use would be free during times of crisis and for other public purposes—to markedly improve fire protection. The common council passed an ordinance granting him a franchise for twenty-five years, later reduced to ten years of exclusive rights with possible forfeiture any time his company could not perform adequately to the council's specifications. Private rates would be set by a commission appointed by the council. By 1858 the system included sixty-large cisterns capable of storing more than a million and a half gallons for fire-fighting purposes. This capacity would be later expanded by the City Water Works Company and Spring Valley Water Company. Even as the *Alta California* gave initial approval of the Merrifield proposition, the newspaper questionably



Franklin E. R. Whitney, San Francisco volunteer firefighter and temperance leader, ca. 1852. As ferocious fires repeatedly ravaged San Francisco in the 1850s, merchants and property owners—with assistance from city government—funded a loosely organized network of volunteer firefighter companies. Firemen were required to provide their own uniforms and equipment, thereby excluding all but the city's wealthy from participating. Whitney, longtime fire chief of Howard Engine Company on Montgomery Street, hailed from an affluent Bostonian family. In 1859 he founded the Dashaway Association, a fraternal temperance organization aimed at persuading firefighters to “dash away the intoxicating cup.” *California Historical Society*, FN-25844.

also argued that it would justify eliminating much of the expense of maintaining the fire department.³³

The San Francisco public school system, or more accurately the absence thereof, was even more a subject for legitimate complaint. In the fall of 1850, Mr. and Mrs. John C. Pelton commenced a school supported primarily from their own funds. Finally the common council allocated some depreciated scrip to help support the school, but there was no state assistance. By the following spring, the family had mortgaged their home to maintain the facility, which was then serving, with assistance from teachers, up to five hundred students. But when Mrs. Pelton became ill, her husband was compelled to discontinue the project, reportedly still with no hope of reimbursement from the city. This negligent situation persisted despite a rapid growth in school-age population. It would be more than a decade before the state legislature fully supported public education.³⁴

There is no question of the large degree of venality and inefficiency in San Francisco government during the early years of California statehood. It is easy to understand the frustration and anger of the supposed "better class" of citizens, who claimed in despair of any lawful remedy to their situation. Yet it can be argued that many merchants and other businessmen were so preoccupied with protecting their own profit margins that they made few demands for government efficiency that would cost them more taxes, such as seeking redress for the often unpaid policemen and schoolteachers. In fact, one of the causes of the depleted municipal treasury was the lack of license fees required of merchants for doing business in the city during much of the period. Similarly, some of the criticisms aimed at city officials for the poor condition of many streets would actually have been better directed at property owners who successfully refused to pay their share of the expense for improvements. Manuel Brannan and Joseph L. Folsom, who owned two of the largest landholdings in the city, were prominent on the lists of street-assessment nonpayers in 1855. The *California* was referring to the vigilante excitement when it stated, "Our people have been aroused from the dangerous lethargy into which they had strangely fallen," which is an apt observation. It is unfortunate that the influential newspaper, along with other natural (and perhaps honest) leaders of the community, could not have awakened the citizens earlier and channeled their energies into more regular political solutions.³⁵

The four city charters in San Francisco's first five years appear to have accomplished little in the way of governmental reform. But when the state legislature passed the so-called consolidation act, which combined San Francisco city and county government in late April 1856, it signaled a subtle but significant transition. Among the first such actions in the nation, the law eliminated serious duplication of offices, and by creating twelve supervisorial districts it may have partly diffused some of the tendency to concentrate influence for questionable purposes. The changes

were already under way before the drastic vigilante committee actions of mid-1856. Although the questionable activity of that extralegal body certainly chastened some who might have been more visibly opposed to the new consolidated government, the vigilantes were not at all active in the process of electing or instituting the significant new regime. The provisions of the new charter were aimed primarily at economizing in local government, specifically prohibiting the use of scrip and most borrowing of additional funds. Many informed citizens preferred this "legal straitjacket" to what had so often been the case previously. Even during the interim period prior to institution of the new combined government, expenditures had declined by more than two-thirds, from \$2,646,190 in 1854-55 to \$856,120 in 1855-56. One of the first acts undertaken after consolidation went into effect was the adoption of strict taxation limits, which placed severe restrictions on city expenditures. As usual, the less-vocal schoolchildren and indigent sick bore more than their share of the cuts.

Among those repudiated in the fall election of 1856 were the Democratic Party led by David Broderick, and the political club or machine associated with him in San Francisco. The American, or "Know Nothing," Party, led by the pathetically weak Governor J. Neely Johnson, was discredited as well. A local "People's Party" entered the field with all of the advantages of no prior tarnishing record among its leaders. The *Alta* observed that "there are no political hacks, no men who make politics a business and a profession" among the People's Party candidates for county office. Actually, all three parties' candidates for president of the city Board of Supervisors, an office that was essentially the mayor, were considered clean and capable businessmen. E. W. Burr, longtime city merchant and People's standard-bearer, was the victor, as were the others on his ticket.³⁷

The *Alta California* editors spoke for many in stating that the new slate of officials then taking office "inaugurates a new era in the history of San Francisco." They hoped "no longer will office be made the mere means of self-aggrandizement" but would be used to serve the people and the welfare of the city. Affirming that "confidence will be restored" and "villainy and fraud no longer command a premium," the newspaper conceded that the new officers would have to clean out "much filth and corruption" that had accumulated for a long time around the seat of government. The editors were most appreciative of the newly mandated economizing, and they encouraged citizens to continue to be vigilant in ensuring that such aims were adhered to.³⁸

A careful student of this period of San Francisco history, Roger W. Lotchin, is correct in his conclusion that with the new government "no regeneration or purification occurred. San Francisco in 1857 did not differ markedly from what it had been in 1850 except politically." As he asserts, the change had already been taking place, without vigilantes. The normal evolution of municipal government, never easy in most burgeoning American cities of the era, and probably not as bad as was often assumed

in Francisco, considering the city's amazingly rapid growth, solved most challenges the natural course of maturity. As the grand jury report of the time indicates, many of the existing problems were on their way to solution even as the new consolidated government took over. One significant boost offered this infant government was a spite from the hostility toward municipal affairs so prevalent earlier among the press and many citizens. The *Alta* cited the inaugural wish of supervisor president Burr that all would "bury the dead past," including bitterness toward city government, and work together for civic betterment. The newspaper called on the people and other newspapers to "cease instilling anger and resentment into the bosoms of the citizens of this youthful city [and allow them] to grow with its growth and strengthen with its strength." In large measure this policy was implemented, a significant key to the long-term greater success of the new city-county government.³⁹

Few, if any, California counties faced a more formidable challenge than did Sacramento County in the need to protect its people from the flood ravages of the Sacramento and American rivers. The problem was not new, with epochal inundations in 1805, 1825-26, and 1846-47, prior to organization of the county government. In the first year of the new county, 1850-51, however, the storm-swelled Sacramento not only flooded most of the town but destroyed many of the structures recently erected there. During the fearful flood, what privately constructed levees existed demonstrated the potential of such structures as a solution to the problem. There was subsequently considerable discussion of the matter, and a committee was formed to conduct feasibility surveys. Directed by committee member Hardin Bigelow, the city commenced construction of more levees. This soon helped save the city from more severe damage from a second flood, after which Bigelow was promptly elected mayor of Sacramento. The city council passed resolutions authorizing appointment of a three-person commission to act with the city engineer to locate spots for other proposed levees. Citizens backed the project by approving a quarter-million-dollar additional tax for the purpose. A levee at least three feet high was thus erected from the high ground along the Sacramento past its confluence with the American River and that stream bank some two and a half miles to higher ground.

However, the floods of 1852 were not contained by the new levees, and citizens worked feverishly to throw up a temporary embankment along I Street. There was still much flooding, but not as severe as two years previously. After that, some levees were relocated and more were built, but at the end of 1852 city residents were again disappointed when a large break occurred in the barrier during another flood, followed by still another early in January 1853. Fortunately, although the water level usually rose higher, there was far less damage to city property than in the 1850 episode. That summer Sacramento city officials passed ordinances to widen and strengthen the levee system, which by that time had clearly proven to be an essential part of city and county government responsibility. The structure soon stood more



After a series of devastating floods in the early 1850s, the Sacramento city council authorized the construction of numerous levees along the nearby Sacramento and American rivers. Heavy rains in December 1861, however, swelled the American River—already choked with hydraulic mining detritus—until it burst through its levee. This picture from the *Illustrated London News* in 1862 shows the corner of L and Fourth streets in Sacramento submerged by the raging flood. “The amount of rain that has fallen is unprecedented in the history of the state,” recorded geologist William Brewer in January 1862. “Thousands of farms are entirely under water—cattle starving and drowning.” *Courtesy City of Sacramento, History and Science Division, Sacramento Archives and Museum Collection Center, Eleanor McClatchy Collection.*

than twenty-two feet above the low-water marks of the rivers. It would be eight years before this levee enclosure would be tested by further floods.⁴⁰

After some flooding in late March 1861, the most destructive flood yet hit on December 9. The levee east of the city gave way, and the American River swept in with devastating force. The other levees actually served to retain the water within the city, which did more damage than any preceding flood. Property losses approached two million dollars. Two weeks later, still another flood inundated Sacramento. After that, the levee commissioners engaged a construction crew of some thirty men to repair the damaged embankments. These men were themselves threatened by a flood on January 9, 1862. Their work was essentially destroyed in yet another event on January 22, when the business section of the city was flooded, as it was again in February in the fifth inundation in three months. After these devastations, Sacramento authorities “bent all their energies to the task of ensuring a better protection for the future.” At a cost of almost a quarter million dollars, the levee system was further elevated, and streets, buildings, and homes for several blocks east of the river were raised. This proved adequate for the next sixteen years.

On the first of February 1878, the gopher-weakened levee along the Sacramento River broke, flooding some of the sector south of R Street. Work crews closed the

reach as the river reached more than twenty-five feet above its low-water mark, higher than had ever been known. Several weeks later, assisted by gale winds, the river, almost a foot higher, again endangered the levee. Large numbers of willing citizens made the structure secure, and further work continued for several months. By the spring the project was again completed and the city pronounced safely enclosed "an admirable system of protective levees" that usually thereafter assured the safety of the citizenry. This was doubtless one of the most extensive undertakings of any municipal government during the period when the first California state constitution was in effect. Other municipalities and counties would also be challenged over the years in flood-control matters, which had been a legitimate local-government function since the beginning of the state.⁴¹

The propensity of United States citizens to innovate and adapt their governmental machinery to the needs of the time and place is well demonstrated in the first years of California statehood. There was naturally some chaos at the beginning, particularly because of the unprecedented influx of people associated with the Gold Rush and differences between their governmental preferences and the already existing forms established in the Spanish-Mexican era. Yet both the voters and the officials they selected to govern them generally resolved the challenges they faced and rather quickly laid the institutional and infrastructural foundation for local government in the Golden State.

NOTES

1. The court of sessions, an old English governmental body, was composed of a presiding judge and two associate justices.

2. J. M. Guinn, *Historical and Biographical Record of Southern California* (Los Angeles: Chapman Publishing Co., 1902), 132, 134.

3. Guinn, *Southern California*, 147-48.

4. Thompson & West, *Santa Barbara County, California, with Illustrations and Biographical Sketches of Its Men and Pioneers* (Oakland: Thompson & West, 1883), 79, 80-81, 96, 144.

5. Leland Ghent Stanford, *San Diego's Legal Lore and the Bar: A History of Law and Justice in San Diego County* (San Diego: San Diego County Bar Association, 1968), 69.

6. *Los Angeles Star*, January 31 and February 7, 14, 21, 1857.

7. Court of Sessions Record Book, El Dorado County, May 21 and June 14, 1850, July 14, 1850, County Government Complex, Placerville, Calif.

8. Hubert Howe Bancroft, in *History of California*, vol. 6, 1848-1859 (1888; reprint, Santa Barbara, Calif.: Wallace Heberd, 1970), 483, states that the first of fifteen bridges in El Dorado County cost \$20,000, but yielded \$250 per day, which would easily recoup construction costs in one season.

9. El Dorado Record Book, June 13 and July 8, 1850. It is probable that all of the bridges authorized that season were intended to replace others washed out in the devastating floods of the previous January.

10. El Dorado Record Book, August 19, 1850, February 11, 1852, February 17 and June 1854.
11. El Dorado Record Book, January 15, 1853, November 12, 1855; Nevada County Court of Sessions Minutes, Nevada City, Calif., February 12, 1855.
12. El Dorado Record Book, July 10, 1850, April 17, 1852, April 27 and December 6, 1855; Board of Supervisors Minutes, vol. A, Calaveras County, San Andreas, Calif., August 1855, May 27, 1857; Nevada County Board of Supervisors Minutes, September 8, 1856.
13. El Dorado Record Book, November 12, 1855, March 21 and June 20, 1856; Nevada County Minutes, March 3 and December 12, 1864, May 6, 1865; Amador County Board of Supervisors Minutes, March 7, 1864, April 4, 1865.
14. El Dorado Record Book, July 16, 1853.
15. El Dorado Record Book, February 14 and April 17, 1854, November 19, 1855.
16. Court of Sessions, regular term, 1853, San Bernardino County, in middle of Record Book; Court of Sessions, October 4, 1858–June 1868, San Bernardino County Archives, San Bernardino, Calif., October 2, 1854, May 6, 1856, December 18, 1857; Edward Leo Lyman, *San Bernardino: The Rise and Fall of a California Community* (Salt Lake City: Signature Books, 1996), 108.
17. Minutes Board of Supervisors, Board of Fund Commissioners, Tuolumne County; Tuolumne County Museum and Historical Society, Sonora, Calif., March 1 and June 1853, February 16 and May 7, 1855, February 15 and November 28, 1856, April 7 and September 29, 1857, February 4 and May 10, 1858.
18. Nevada County Records, August 5, 1856, February 4, 1857.
19. *Los Angeles Star*, August 7 and November 6, 1852. Much of the outstanding scrip was then marketable at a third of its face value. If all of what was outstanding had been collected and funded at full face value, that would have substantially increased the county's indebtedness.
20. Lyman, *San Bernardino*, 90; Guinn, *Southern California*, 131; San Bernardino Court of Sessions Minute Book, November 2, 1857.
21. *Los Angeles Star*, April 2, 1853.
22. Lyman, *San Bernardino*, 269–71; Hazel Miller Croy, "A History of Education in San Bernardino during the Mormon Period" (Ph.D. diss., University of California, Los Angeles, 1955), 82–98.
23. *Los Angeles Star*, February 28 and August 7, 1852, May 11, 1853, May 6, 1854, February 1 and 8, April 28, 1855.
24. *Los Angeles Star*, December 22, 1855, March 1, 1856, December 26, 1857.
25. El Dorado Record Book, February 17, 1854; Nevada County Supervisors Minutes, August 6 and December 12, 1864.
26. Guinn, *Southern California*, 132–33; Bancroft, *California History*, 194.
27. Lyman, *San Bernardino*, 222–23.
28. Kevin J. Mullen, *Let Justice Be Done: Crime and Politics in Early San Francisco* (Reynolds University of Nevada Press, 1989), 8, 25, 44, 92–96, 118.
29. *Ibid.*, 105–18; *Alta California*, January 27, 1851.
30. *Alta California*, February 11, 1851; Mullen, *Early San Francisco*, 118–19; see Theodore H. Hittell, *History of California*, vol. 3 (San Francisco: N. J. Stone & Co., 1897), 397–98, for a discussion of scrip.
31. Hittell, *California*, vol. 3, 361–65; *Alta California*, January 27, 1851.
32. Mullen, *Early San Francisco*, 83–87; *Alta California*, February 26, 1851.

3. Hittell, *California*, vol. 3, 361, 366; *Alta California*, March 19 and April 4, 1851.
4. *Alta California*, March 20, 1850, January 27 and 28, February 28, March 3 and 13, 1851.
5. Roger W. Lotchin, *San Francisco, 1846-1856: From Hamlet to City* (New York: Oxford University Press, 1974), 150, 275; *Alta California*, October 10 and 31, 1856. It was hardly a joke when the *Alta* warned that if pedestrians were not on their guard, they could "turn on missing" from falling through the plank streets into the surf below. Some had actually drowned, and many others were narrowly rescued from this well-publicized municipal deficiency, for which both public and private interests were responsible.
6. Lotchin, *San Francisco*, 137-40.
7. *Alta California*, October 27 and 30, 1856.
8. *Alta California*, November 6 and 22, 1856.
9. Lotchin, *San Francisco*, 271; *Alta California*, October 1 and November 17, 1856.
10. Thompson & West, *History of Sacramento County, California, with Illustrations* (1880; reprint, Berkeley: Howell-North Press, 1960), 50-51, 66-69, 73.
11. Marysville was equally challenged with flooding and in 1861-62 raised funds by subscription for a levee extending from the foot of D Street to F Street. Later citizens would organize a flood control district and appoint commissioners to oversee such matters. See Peter J. Delay, *History of Yuba and Sutter Counties, California, with Biographical Sketches* (Los Angeles: Historical Record Co., 1924), 103-104.

9

An Uncertain Influence

The Role of the Federal Government in California, 1846–1880

Robert J. Chandler

Did rugged individualists tame the West, or did pioneers merely arrive at a well-ordered colony of the federal government? Popular myth enshrines the first view. In 1991, however, "New" Western historian Richard White, building on more than half century of research, argued that "The West has been historically a dependency of the federal government." Moreover, he observed, "the West itself served as the kindergarten of the American state," teaching it the governing skills needed to develop a sparsely settled land. In a 1999 article, Karen R. Merrill called on New Western historians to specifically distinguish how federal aid to the West differed from benevolence to other regions. What has been the federal role in dynamic California?

White concentrated on the less populated territories and states. He excluded the largest and most populous western states, Texas and California, as their "early statehood place[s] them in a different category," which renders his theory dubious for the Golden State between 1846 and 1880. During the pioneer period, when residents quickly needed the most rudimentary federal services, the national government did not provide. Through the nineteenth century, in fact, the federal government's participation in California was more a product of happenstance than it was activist, but growing more sure of itself, the government gradually laid the foundation for its dominant role building the West in the twentieth century.

Historian William Henry Ellison argues that through the 1850s, when southern strict constructionists dominated, the federal government did too little, too late. The national government failed in any actions that required speed. Question and answer between Washington and San Francisco took up to three months, leading the San Francisco newspaper *Alta California* to remark, "The Golden State is the only one which, in consequence of its isolation, is forced to work out her own destiny."

Congressional neglect spurred Californians to establish a state government, immigrant roads, mining law, circulating coinage, and letter delivery.¹

In California, the federal government slowly fulfilled its constitutional mandate to "establish justice, insure domestic tranquillity, provide for the common defence, and promote the general welfare." Through the fortunes of war, it provided able military governors before statehood in 1850. By the mid-1850s, the federal government had authorized subsidies for the operation of steamships, stagecoaches, telegraphs, and railroads; the exploration, surveying, and distribution of public lands; the building of forts, harbor defenses, lighthouses, and dry docks; and the establishment of a rudimentary postal system and branch mint. The federal government built an infrastructure—but it brought along corrosive political patronage.

Mixed federal success came with important issues during the 1850s, when political action and the government was unable to broker lasting solutions. Whether stopping filibusters, deciding ownership of Mexican land grants and mineral lands, preserving peace between whites and Indians, negotiating with Native Americans, or establishing reservations to contain them, the federal government made few people happy. For instance, settlers and the state "took care" of Indians with brutal precision, and during the Civil War, California Volunteers supplied enough troops to finally crush Native American resistance.

With more activist Republican control in the 1860s, California gained from the federal government daily overland mail service, an overland telegraph, and the long-sought transcontinental railroad. During the Civil War, civil authorities, by inclination, the ballot box, and presidential proclamation, smothered any secessionist threat to the three hundred thousand Californians. Four successive commanding generals of the military Department of the Pacific kept the peace, occasionally sending heated Democrats to cool off on frigid Alcatraz, while the secret Union League, which counted the governor and army adjutant among its grand council members, watched closely. National stamp, license, and income taxes showed federal presence as never before.

After the war, the federal government began to exceed some state and private efforts in economic affairs and assert more influence over politics, but the same omission existed. In the 1870s, California's enormous and powerful economic entity, the Central and Southern Pacific Railroad, called into being by congressional subsidies and land grants, equaled state efforts and surpassed the federal government in mining land, developing crops, and promoting conservation. Of course, this same mighty Southern Pacific Railroad chose the laissez-faire federal government as a refuge from the angry regulatory state of California.

At the same time, the national government did promote civil rights and encourage conservation and forestry. Beginning in the late 1860s, during Reconstruction, Radical Republicans passed civil rights legislation enabling the federal courts to

thwart the public will and actively protect the Chinese in California. These courts also favored farmers over miners to prevent hydraulic debris from destroying cropland, but irrigation remained a tangled state issue. As late as 1901, for instance, federal irrigation expert Elwood Mead issued a four-hundred-page report on California's chaotic allocation of water, arguing that federal intervention was not "either possible or desirable." Symbolically, in 1902, the year after Mead's report was published, Congress passed Nevada congressman Francis Newlands's famed Reclamation Act. Twentieth-century Progressives brought an interventionist national government.²

SETTING POLICY

The Military's Role in Birthing State Government

In the beginning, agents of the federal government presided over California. From July 7, 1846, until December 20, 1849, five military officers ruled the just-conquered province: Commodore John D. Sloat (July 1846); Commodore Robert F. Stockton (July 1846–January 1847); General Stephen W. Kearny (January–May 1847); Colonel Richard B. Mason (June 1847–April 1849); and General Bennett Riley (April–December 1849). Distant from Washington, these governors interpreted customs regulations, inaugurated local government, and kept the peace.

Theirs was a thankless job. On August 19, 1848, Colonel Mason wrote Washington: "No other officers exist in the country, save the alcaldes confirmed or appointed by myself." Yet, he asked, under the Constitution, "what right or authority have I to exercise civil authority?" As Congress continually abrogated its responsibility to create a civil government for the province, General Riley declared on June 3, 1849, that "imperative duty" required him to inaugurate a civil government. Elections on August 1 would select delegates to devise a constitution, which the citizens promptly passed. Military governor Riley stepped aside on December 20, with new "state" officials in place: "The principal object of all his wishes is now accomplished," he declared to Californians, "the people have a government of their own choice." Amid a gold-mad population, a handful of military officers had honored the credo of West Point: "Duty, Honor, Country."³

Formal statehood, belatedly approved by Congress in 1850, cemented traditional civil government, and the Army assumed a subordinate role. Crusty General John E. Wool, age seventy, summed up California conditions on March 1, 1854, when he had only a thousand men—a tenth of the peacetime Army—to "keep the peace in the immense territory of California, Oregon, Washington, and Utah," to prevent filibustering "expeditions fitting out against Mexico, and to protect the whites and the Indians against each other." To emphasize, Army officers knew duty called them to protect peaceful Indians from settler mayhem, just as much as it did to protect farm-



After months of virulent debate in Congress, President Millard Fillmore signed a bill admitting California into the United States on September 9, 1850. According to one observer, the news, which reached the state more than a month later, "was received on all hands with demonstrations of joy. Balls, processions, illuminations, fireworks, all testified to the general sentiment which prevailed." British Argonaut Frank Marryat captured the mood of excitement in this drawing of an October 29 parade celebrating California's statehood down Montgomery Street in San Francisco. *California Historical Society, FN-00616.*

and ranchers from mountain raiders. "We have too few troops to do either the one thing or the other," Wool concluded.⁴

When hostilities had broken out with Mexico in 1846, the Army had seized the presidios at San Francisco and Monterey. A supply depot established at Benicia on April 30, 1849, for the Army's mere six hundred men was expanded in August 1851 to include an extensive arsenal. Through the 1850s, the Army built additional forts to watch hostile Indians and protect peaceful ones, while engineers planned and slowly constructed elaborate forts for defenseless San Francisco Bay.⁵

Politics limited Army action. The Compromise of 1850 that admitted California as a state limited the number of slave states. Southerners looked south to Cuba and Mexico, and California became a staging ground for private filibustering expeditions against Mexico. General Ethan Allen Hitchcock, who had special presidential instructions to stop such hostile expeditions, on October 1, 1853, seized William Walker's filibuster brig *Arrow*. However, with the connivance of proslavery federal officers, arms and men transferred to the *Caroline*, and Walker sailed away. On January 9, 1854, pro-southern, petulant secretary of war Jefferson Davis replaced Hitchcock with the opinionated Wool, who assumed he had full power to stop filibustering expeditions. In March 1854, Wool arrested leading men, seized ships, had the



More than five hundred U.S. naval vessels have been built, housed, or maintained at the Navy yard at Mare Island, drawn here by J. B. Dunlap in 1855. Situated near Vallejo in San Pablo Bay, the Mare Island shipyard set a naval record for speed of construction during World War I, when it built the USS *Ward* in seventeen days. *Courtesy Bancroft Library.*

Mexican and French consuls tried for abetting the expedition, and gloried that it had been "the means of breaking up the filibustering schemes." In April, however, the secretary of war also reined in Wool and ordered Army headquarters moved from San Francisco to the more isolated Benicia. While these orders were in transit, French threats provoked Wool on May 1, 1854, to order the first guns mounted for harbor defense—ten heavy guns for Alcatraz and another ten for Fort Point. Thanks to future Confederate States president Jefferson Davis, Wool's adjutant concluded, "Filibusters now go and come as they choose and no one cares a straw."

Having had his hand slapped once, Wool was cautious when the San Francisco Committee of Vigilance formed in May 1856. By law, only the president could issue arms, so Wool and his Navy counterpart declined the California governor's repeated requests for military assistance and ordered officers to remain "perfectly neutral." The Navy, on the other hand, showed federal might with a warship anchored off downtown San Francisco. Although Governor J. Neely Johnson fumed over the "duplicitous and falsehood" of "Old Granny Wool," President Franklin Pierce maintained there were "insurmountable obstacles" to federal intervention.⁶

The Navy had its special role in California, and especially San Francisco. In the mid-nineteenth century, French and British imperialists eyed Mexican instability while the United States fought a war to acquire Mexico's northwestern provinces. The Pacific might not remain pacific, the Navy's theory went, and United States

warships needed a base for regular maintenance and numerous repairs of damage caused by normal operations at sea or enemy shot and shell.

In 1850, President Millard Fillmore reserved Mare Island, near Vallejo, for government purposes. "A new empire has, as by magic, sprung into existence," Secretary of the Navy William A. Graham exclaimed, and "a navy yard is very much needed in California." In 1854, a prefabricated floating sectional dry dock went into operation. Commercial sailing ships, Pacific Mail Company ocean steamers, and California Steam Navigation riverboats used it far more often than the half-dozen warships of the Pacific Squadron. That autumn, David Glasgow Farragut, who knew the Pacific from his days aboard the frigate *Essex* during the War of 1812, wrote in the Navy Yard log for September 16, 1854, that he "took command of the Island this day, and [reflecting confused land titles] forthwith warned off all the Squatters, viz. Turner, Roy, Vera, Gilbert and Antonio Pinto. Weather very fine but warm."

On March 3, 1859, the Mare Island Shipyard launched the first of 513 vessels it built before decommissioning in April 1996. Petaluma white oak went into the 155-foot, four-gun, sidewheeler *Saginaw*. Eleven years later the ship was providing typical peacetime Navy duties: helping construct a coal station on Midway Island for the Pacific Mail's China steamers and plotting the location of nearby Ocean Island while searching for shipwrecked sailors. But on October 29, 1870, a strong current drove the vessel onto a reef, and the *Saginaw* became the third wreck in the atoll.⁷

Constructing Transportation and Communications Systems

Federal assistance, including by the armed services, was vital in building California's transportation system. The U.S. Coast Survey helped navigators. Scientist George Davidson, who arrived in 1850 and served the Coast Survey through 1895, was a workaholic with tremendous physical stamina. From Mexico to Puget Sound, and then on to Alaska, he traveled four hundred thousand miles producing maps, while sensitively preserving Native American names for geographical features. Davidson was also on the federal Lighthouse Board, which chose locations for building light-houses to aid navigation along the treacherous shore. In June 1854, Fort Alcatraz had the first light in California, and nine others quickly followed. In 1880, twenty-two lighthouses lit the California coast.⁸

Land routes were another matter. Journeying overland to California in the late 1840s and early 1850s was a do-it-yourself proposition, from choosing equipment and selecting a route to developing a traveling organization. In late August 1849, Army commander General Persifor F. Smith had to dispatch rescue parties with provisions for eight thousand amateur Argonauts stuck far out on the trails as winter closed in. Civilians, rather than the Army, however, assumed the most active roles in transportation improvements, as through the 1850s isolated Californians demanded better roads, faster mail, speedier communications, and above all, a railroad.



Scientist and engineer George Davidson led a seven-year U.S. survey of the Pacific Coast in the 1850s, recorded here by renowned California photographer Carleton E. Watkins. The Davidson Expedition established accurate latitude and longitude measurements for several prominent California landmarks, chose sites for numerous lighthouses, and published the *Directory of the Pacific Coast*, which established the standard for the authoritative nine-volume Coast Pilot series of nautical books, written by various authors and describing the coasts and waterways of the entire United States. *California Historical Society, FN-29050.*

Yet to succeed, private interests depended on federal encouragement and especially federal subsidies to spur development.

Just in time for the Forty-niners, Army topographical engineer John Charles Frémont published a map of California and Oregon with an explanatory geographical memoir. His information became part of numerous guides and descriptions, with mixed results. In 1856, Charles T. Blake, a supporter of Frémont, now the Republican presidential candidate, wrote home: "Many a time in '49 and '50 have I heard Frémont cursed roundly" because his maps "are very incorrect and will not do to travel by." After the Gold Rush was over, California senator John B. Weller and seventy-five thousand Californians petitioned "for the Construction of a Wagon Road across the Plains." His 1856 law transferred road-building from the War Department to the Department of the Interior, and appropriations for the Pacific Wagon Road Office came on February 17, 1857. Field parties, filled with those showing "service to the Democracy," began work, and through 1860, engineer Frederick W. Lander improved the central route.⁹

To the delight of Californians, on March 3, 1857, Weller also inserted a semi-weekly overland mail subsidy into the Post Office appropriation bill, and of course

the southern postmaster general picked a southern route. Mail between St. Louis and San Francisco, via El Paso, Texas, and Los Angeles, crossed the fiefdoms of our large express companies: American, Adams, United States, and Wells Fargo. Together they formed the Overland Mail Company to bid successfully to supply the three-week stage and mail service, and the first coaches on this regularly scheduled overland mail and passenger service departed in September 1858. Hostile Indians and Texas rebels blocked the mail coaches in March 1861, however, causing service to shift to the central route, which traveled through Salt Lake City to Sacramento.¹⁰

From 1857 to 1859, California senators John Weller and David C. Broderick, powerful northern Democrat Stephen A. Douglas of Illinois, and the foremost Republican, William H. Seward of New York, fought for an overland telegraph to produce virtually instantaneous communication. On June 16, 1860, President James Buchanan finally signed California senator William M. Gwin's bill, which gave the contract to the Western Union Telegraph Company. In July 1861, a subsidiary began building west from the Mississippi Valley toward Salt Lake City, while concurrently the California State Telegraph Company made the same arrangement to head east. The lines joined on October 24, 1861, connecting the state to the rest of the nation, and with the Atlantic cable in 1866, to the rest of the world.¹¹

The railroad, the third of California's requests, was first in desirability. As the newspaper *Alta California* phrased it, Californians demanded "the iron band which will create an adhesiveness of common interest." In January 1853, Senator Gwin introduced the first of many Pacific railroad subsidy bills, yet Californians knew that under the limited constitutional construction by Gwin's southern cronies, it would never be. When John B. Weller read the southern Democratic Party railroad resolution at a San Francisco ratification meeting on July 28, 1860, the crowd "fairly shouted with mirth." The Republican revolution in the 1860 election—bringing in a Republican president, a Republican-dominated Congress, and soon a Republican state governor and legislature—brought life to California's railroad dreams. Fulfilling the promise, the new Lincoln administration authorized a quicker, daily overland mail on the central route through Salt Lake City beginning July 1, 1861.

The next year, Republicans fed a steam-puffing iron horse. The mighty *Sacramento Union* exulted on July 4, 1862, that "the President has signed the Pacific Railroad bill (*laus Deo!*)."¹² This bill, and an even more generous one in 1864, provided essential federal monetary subsidies and land grants from the public domain to assist in the construction of California's Central Pacific Railroad and the eastern-based Union Pacific Railroad. The two lines joined in a dramatic golden-spike ceremony in the northern Utah desert on May 10, 1869, opening up new opportunities in agriculture and business to California's residents.

Indian Policy

Complicating the federal role in Indian policy, intense conflict erupted in California after 1846. Native peoples had long called the land home before citizens of the United States arrived, and the federal government was forced to mediate the conflicting claims of ownership. Initially, a massive influx of agricultural and industrialized Americans and Europeans, crazed by the search for gold, generated conflict with more than a hundred thousand hunter-gatherer native inhabitants. One Fortyniner summed up a general hostile feeling among the miners in Clear Creek: "We have an Indian hunt here in our neighborhood about once every two weeks," he wrote. Within ten years, the Indian population, due to violence directed against them and even more because of disease, had dropped to about thirty thousand. Native Americans have fared better in recent scholarship than they did physically in the 1850s. Even a century later, many writers saw Indians only as "murderous savages"; more often now, that epithet is applied to their opponents, and contemporary scholars view Native Americans as active participants in historical events, rather than passive victims.¹³

In April 1847, military governor Stephen W. Kearny appointed Mariano G. Vallejo and John A. Sutter as Indian subagents to work to pacify Indian-settler relations, but strife in the Southern Mines led in late 1850 to the dispatch of three additional commissioners. George Barbour, Oliver M. Wozencraft, and Redick McKee joined James D. Savage, a local Indian negotiator, to establish a series of Central Valley reservations to separate Indians from the aggressive newcomers. This new policy had high hopes, but poor results. First, in 1852, Congress, to no one's surprise, refused to ratify the reservation treaties that tribes had been coaxed into signing, which would have set aside one-seventh of the state. In 1853, Congress began fitfully to establish federal reservations on which to concentrate and isolate Indian populations. One was in southern California (Tejon), followed by three in the north (Nome Lackee, Klamath River, and Cape Mendocino). Not only did this arrangement disrupt the habits and food supply of the Indians, who were moved into unfamiliar territories, but it also brought no peace. In July 1852, Chief Pasqual mourned, "When in the mountains we were hunted like wild beasts; here [on our Kings River reservation] we are shot down like cattle."

"As far as anyone can see, the whole system is turned into a speculation for the benefit of the [Indian] Agents," Major Edward D. Townsend, the California military department's adjutant general, concluded in 1855. Little improvement came in the next decades, as the federal government proved unable to discipline patronage-appointed officials, who continued to commandeer Indian property, women, and supplies. Sometimes, the perspective of a madman—but one devoted to civil rights—is the clearest: on April 23, 1873, His Imperial Majesty Norton I, the self-proclaimed

emperor of the United States and a notorious San Francisco street character, decreed: "It is our intention to have publicly punished, before as many Indian chiefs as can be assembled together, all the Indian agents and other parties connected with frauds against the Indian tribes."¹⁴

Significantly, contemporary historian George Phillips has declared that the state of California (as well as Oregon and Washington territories) took "advantage of a weak federal presence" to handle Native Americans by funding volunteer quasi-military companies to decimate or relocate them. In 1853, the California legislature condemned federal inefficiency: "Families were being daily most inhumanely massacred by ruthless savages. No protection had been furnished by the officer in command of the United States forces." Michele Shover's fine scholarship centered on Butte County reveals the complexity. Her analysis foreshadows the epic battle of "gold versus grain," or miners against farmers. Mountain Indians formed alliances with gold miners, who furnished protection and firearms for valley raids on farmers, who were interfering with debris-causing mining operations. Valley settlers, working marginal wheat farms and cattle ranches, saw to their own security, as county officials had no duty to protect them. The retributive cycle of attack and counterattack became continuous and resulted in the scattering or annihilation of many Indian groups.¹⁵

The Civil War ended Indian-settler conflict in California. General George Wright, an Indian fighter from the Pacific Northwest, provided Army leadership, while the California Volunteers supplied needed manpower. With the exception of occasional skirmishes, violence between Indians and settlers subsided. The federal government concentrated California's Indians, now sharply reduced in population, on a few reservations, and most Army posts did not remain open past mid-1865.

The 1873 Modoc War is surely misnamed as a "war." Kientipoos, or Captain Jack, a whites called him, led a mere two hundred Modoc men, women, and children from a reservation in Oregon, where they had been confined with enemy tribes, back to a small portion of their desolate homeland in far-northern California. Indian treachery through murdering a general at a peace conference brought conflict, but Army ineptness created a drawn-out crisis. The untrained soldiers fought so poorly that His Imperial Majesty Norton I offered a suggestion to the bumbling federal government: rather than hang the Modoc captives, Norton I suggested that they "all be pardoned and sworn into the service of the United States army" where their skills would be of benefit. The government chose to hang its captives.¹⁶

Conflicting Policies on Mining and Land

When the cry of "Gold!" resounded around the world, the federal government treated its California mineral lands with benign neglect. It ignored Governor Richard B. Mason's suggestion to license miners, contained in his famed report of Au-

gust 17, 1848, announcing the gold discovery. Instead, itinerant miners, drawing on Spanish precedent and English frontier self-determination, established extralegal, locally devised administrations and imposed regulations for placer and lode mines which state courts ultimately enforced.¹⁷

Other voices spoke otherwise, however. "Mineral lands should be sold," John S. Hittell, the commercial editor of the *Alta California* avidly argued from March 1858 forward. "Ownership makes the people permanent, and induces men to get wives and comfortable homes." In 1861, the formidable challenge of paying for the Civil War effort made the federal government his ally. Secretary of the Interior Caleb Smith suggested in his report that year that miners should "pay a reasonable amount" to exploit public lands and resources, and in 1862, the commissioner of the General Land Office asserted that taxing the mines would bring "an immense revenue." Accustomed to free access to harvest the riches of the public domain, however, Californians thought the idea preposterous.¹⁸

Civil War finance, greed, corruption, activism, President Abraham Lincoln's meddling, and the gubernatorial election compounded a complicated crisis on the mineral lands in 1863. At stake was the New Almaden Quicksilver Mine near San Jose, founded before the Mexican War and now claimed under Spanish-Mexican land and mining law. On March 10, 1863, a confused U.S. Supreme Court ruled that the mine was on federal property. Two months later, on May 6, 1863, Interior Secretary John P. Usher, backed by Attorney General Edward Bates, proposed an unprecedented deal to Samuel F. Butterworth, president of the Quicksilver Mining Company and one of the claimants to the New Almaden. This arrangement would give the government a third of the mine's yearly income as lease rent. If agreeable, Leonard Swett, an Illinois attorney and good friend of the president, would take "immediate possession of the mine" and operate it. Swett and Butterworth arrived in California on June 29, presented the presidential writ to the mine superintendent, and called on General George Wright for federal troops to install them in possession. Soon a detachment from Company F, Second Cavalry, California Volunteers, departed for San Jose "fully prepared for active service."

On July 8, Frederick F. Low, Collector of the Port of San Francisco and the first of many Californians worried about implied government control of all mines, telegraphed Washington that the seizure "will be terrible." Ira P. Rankin, the former collector, stated the problem: "Many are already inquiring anxiously, if the government may with the strong hand take possession of the Almaden mine, why not of the Ophir the Gould & Curry or any other of the richest silver or gold mines of California and Nevada?" While Butterworth worked out a deal with the occupying mine company, opposition Democrats had a field day. Former Governor John G. Downey, running again for governor, denounced the "unmitigated evil" of federal interference and issued a ringing declaration: "To the miners belong the mines." President Lin-

John, meanwhile, laid low and opined that in California land cases, "I do not think should meddle as a volunteer."¹⁹

The federal government, though, continued to assert that mines were "the property of the nation" and could be taxed, and a 0.5 percent levy on assayed gold bars became part of the revenue law of June 30, 1864. In 1866, eastern congressmen, seeking to place a larger share of the cost of supporting federal operations on westerners, pushed strongly for the sale of mineral lands, but Senators John Conness of California and William M. Stewart of Nevada thwarted what westerners perceived as misguided ignorance. Stewart's bill, which became law on July 26, 1866, allowed for the sale of lode mines but incorporated local custom, which generally provided for the claims. Once the federal government assured investors it would not disturb current practices, the controversy died. Congress added placer mines on July 9, 1870, while on May 10, 1872, Senator Stewart pushed through the present mining law, which provides for mineral claims to be made on federal lands for only token fees.²⁰

In a generous mood, the federal government turned over public lands to the states, but national and state bureaucracies often prevented benefits from reaching intended recipients. On September 28, 1850, the government, through the Arkansas Act, gave the states control of swamp and overflow lands, provided they reclaimed them. However, in California, for the next fifteen years, the federal land commissioner quibbled over definitions and characteristics of this allegedly worthless acreage, and the federal government transferred only small amounts of such land.

In another area, the state took the blame. In 1852, the federal government, under the 1841 law, donated five hundred thousand acres of public land to the state, which California in article 9, section 2, of its 1849 constitution declared would go "for the support of schools." On March 3, 1853, the national government added sections 16 and 36 from each of the townships on federal land that it surveyed and prepared for sale to farmers and other settlers. The state, however, by a law of May 3, 1852, accepted depreciated state scrip at par value for payment on school lands and placed the minimal proceeds into the general fund, rather than the school fund. In 1862, for instance, impoverished schools did not receive their allotted frugal budget "on account of pressing demands on the Treasury."²¹

General federal land law for California became more troublesome than that governing mineral lands. A prime federal duty since the Continental Congress's Land Ordinance of 1785 and Northwest Ordinance of 1787 was to disburse public land to farmers and investors. Even before federal surveying, settlers in possession of land, but lacking actual titles, could preempt or buy their holdings. For the Golden State, on March 3, 1853, Congress obliged with "An Act to provide for the survey of Public Lands in California, the granting of pre-emption rights therein, and for other purposes." Government surveyors plotted land into six-mile-square townships, subdividing them into thirty-six sections of one square mile, or 640 acres, each. Between

1857 and 1860, President James Buchanan reduced the federal debt through the sale of eleven million acres in the Central Valley. The federal Homestead Act of May 20, 1862, allowed settlers to claim a quarter section, or 160 acres, at essentially no cost. "Good Land for Nothing," the *Visalia Delta* trumpeted on Christmas Day 1862, and in less than four months after the law went into effect on January 1, 1863, the local land office handled sixty-eight homestead claims. Furthermore, various land laws later transferred several million acres of additional federal land free or at very low prices to farmers and land-development companies, who subdivided and brought the land into production. The Central-Southern Pacific Railroad also worked mightily through the 1870s and 1880s to get its government-granted farmland into the hands of settlers.²²

In California's first decade of statehood, only white men could gain public land. In 1858, Democrat A. C. Bradford, register of the General Land Office in Stockton, reaffirmed Justice Roger B. Taney's Dred Scott decision. "By the laws of the United States," he ruled, "colored men are not entitled to the right of pre-emption." Yet times were changing. During the Civil War, on November 29, 1862, U.S. attorney general Edward Bates declared that African Americans were indeed "citizens," and Republican A. J. Snyder of the Marysville Land Office agreed. When squatters attempted to oust sixty-seven-year-old Benjamin Berry, who had arrived a slave in 1850 but purchased his freedom through three thousand dollars' worth of labor, Snyder appealed to Washington. Acting federal Land Commissioner Joseph S. Wilson replied quickly on March 12, 1863: "The man Berry," Wilson said, "will be entitled to the benefit of the pre-emption laws, as also of the Homestead Law."²³

Women, too, benefited from both acts, as a Nevada case shows. Deserted by her husband, Francis Straskel and her two children fled to Nevada, where in 1861 she married a man squatting on unsurveyed land. Her husband turned out to be a bigamist, and following his death in 1865, his children claimed the now-surveyed homestead. The Carson City Land Office investigated: "Mrs. Straskel was really the head of the family," it found. She had "worked out of doors, and by keeping cows, raising chickens and vegetables, taking care of the sick and practicing mid-wifery, raised the greater share of the funds necessary for putting up said improvements [of a dwelling house] and supporting the family." On May 10, 1867, the General Land Office "affirmed" the decision of its Nevada branch. Many women homesteaded, or pre-empted, or otherwise acquired, federal land in California through the nineteenth century.²⁴

The most contentious and controversial policy concerned the status of some eight hundred huge Mexican land grants, which the federal government had promised to respect under the terms of the 1848 Treaty of Guadalupe Hidalgo. Two conflicting reports advised Congress of the situation. The first, by Captain Henry W. Halleck, secretary of state under the region's military government, on March 1, 1849, de-

ered that many grants, and certainly those granted in the final days of Mexican rule, were "very doubtful, if not entirely fraudulent." A year later, William Carey Jones, son-in-law of influential Missouri senator Thomas Hart Benton, who, like Benton's other son-in-law, John C. Frémont, had gained large holdings from Mexican ranchers, saw things differently: "The grants in California, I am bound to say, are mostly *perfect titles*."²⁵

At the urging of California senator William M. Gwin, who wished to protect "a princely national domain" for "hardy enterprising settlers," Congress on March 3, 1851, passed "an Act to Ascertain and Settle the Private Land Claims in the State of California." Unlike with previous contested claims in the expanding United States, which Congress had handled amid great uncertainty and conflict, a three-man commission would first rule on the legitimacy of Mexican titles, with the right of appeal to either of the two United States District Courts in California and then to the Supreme Court in Washington.²⁶

The effect of the California Land Commission remains highly controversial, with division among historians still following the logic of the Halleck and Jones reports. All agree the process was time consuming and costly. "The result is delay upon delay," John S. Hittell fumed in 1858, as attorneys "made out like bandits." In Los Angeles, Hittell claimed, "two fifths of the land has gone to pay the fees of the lawyers employed." Attorney Elisha Oscar Crosby, whose firm handled one-eighth of the cases, denounced the United States Supreme Court for "the grossest outrages upon equity and common honesty." Even the law firm of Henry W. Halleck, Archibald C. Fitch, and Frederick Billings, which argued at least 120 of the 800 cases, was often baffled. In 1865, John Rowland despairingly wrote Halleck after thirteen years of battle to patent an uncomplicated southern California grant. General Halleck, then chief of staff of the Army, cited his comparable frustrations on June 2: "There seems to be one way to expedite business in that [General Land] office—hire an agent and give him plenty of money." That government deceit and confusion robbed grantees of their patrimony is a mantra of contemporary California historians.²⁷

The great land historian Paul W. Gates almost alone opposed the Jones position, until historian Donald J. Pisani later intellectually joined him. Gates firmly backed "the settler interest," and after thoroughly studying the cases, he found areas of gray. Gates and Pisani ably supported Crosby's conclusion that the rancho system worked to place lands "into the hands of speculators." Men of power and wealth, whether Californios or grant purchasers, floated boundaries to cover settler-improved land assumed to be in the public domain, while squatters occupied the best rancho lands whose grants would not be confirmed.²⁸

Christian G. Fritz, biographer of federal district judge Ogden Hoffman, emphasized the politics behind the determination of land ownership, from the appointment of the commissioners to the decisions of the United States Supreme Court. District

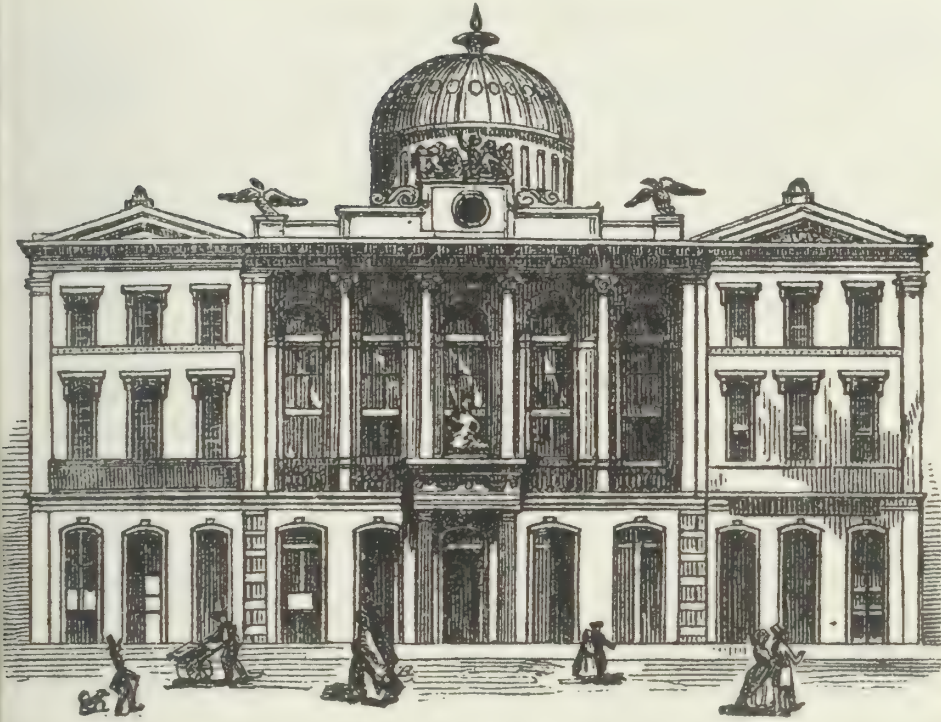
Judge Hoffman scrutinized grants critically until Jones and Benton personally appeared before the Supreme Court to appeal the rejection of Frémont's Mariposa grant, which had filled none of the conditions of Mexican law. Chief Justice Taney showing the questionable legal acumen later appearing in the Dred Scott case, ruled in December 1854 that Mexican governors had made grants solely "in consideration of the previous public and patriotic services of the grantee," and none of the regulations needed to be followed. A bewildered Hoffman admitted he "did not understand the decision of the Supreme Court," but felt bound to apply it, and confirmed eighty-five of the next ninety grants appealed from the commission, including blatantly fraudulent ones.²⁹

A political shift came in 1857, when Jeremiah S. Black became U.S. attorney general and looked askance at the "pretended titles" in the Golden State. Crusty attorney Edwin M. Stanton found proof to convince Black of "an organized system of fabricating land titles carried on for a long time." By 1860, the Supreme Court agreed, and grant-holders suffered losses in some cases. But the final turn arrived in 1863. President Lincoln appointed the dominating California justice, Stephen J. Field, to the U.S. Supreme Court, and Field held the right to property sacred; subsequently, most claims to Mexican grants were confirmed. Nevertheless, confusion over prior Mexican land titles deterred agricultural development for decades after the Gold Rush.³⁰

FEDERAL PATRONAGE

Influence of U.S. Treasury Department

Normal government services relied on patronage. Politicians raised the support needed to gain and hold office by parceling out jobs to friends. Competence for positions was secondary, and through alliances, patronage became a unifying party machinery. For patronage, no other department could top the U.S. Post Office, with its network of party animals scattered through the hinterlands. In California's dominant city, San Francisco, however, the U.S. Treasury Department reigned supreme. There, the Treasury Department ran—besides the obvious customs houses (in San Francisco, Benicia, Monterey, Sacramento, San Diego, San Pedro, and Stockton) and branch mint—the Revenue Cutter Service, Light House Department (both later merged into the Coast Guard), and the U.S. Marine Hospital. The San Francisco Customs House had 120 employees, and the collector of the port pulled down a salary of \$10,400 a year, compared to \$4,500 for the superintendent of the branch mint and assistant treasurer of the United States. The customs house collector ruled the offices of collector, auditor, appraiser, naval officer, surveyor, weigher and measurer, superintendent of warehouses, and gauger, plus the thirty \$150-a-month inspectors. Even laborers in the agency received what was



An important aspect of the U.S. government's role in shaping pioneer California was the establishment of a federal court system in the 1850s. This drawing of the U.S. District Courtrooms, on Battery Street in San Francisco, appeared in the 1859 *San Francisco Almanac*. The building housed both a district court (for the prosecution of federal crimes) and a circuit court of appeals. *California Historical Society, FN-19510*.

then a princely wage of \$100 monthly. The branch mint had thirteen highly paid employees, with six clerks starting at \$2,000 per year, but employment there required a knowledge of chemistry and metallurgy. The Marine Hospital, which opened in 1854 to care for indigent seamen, provided opportunities to award lower-paying jobs. Its staff consisted of two surgeons, a steward, and an apothecary, plus seventeen nurses, cooks, washmen, watermen, and laborers.³¹

Through southern Democratic control of the state during the 1850s, Californians viewed the customs house as "The Virginia Poor House," but in 1860, victorious Republicans quickly lost any claim to being reformers. "Sir, the Election is over and I live for once in my life, Voted for the successful Candidate," a Californian declared, "and now I am one of the Many that want an office." Throughout the 1860s and 1870s, California Republicans and Democrats battled over spoils, embarrassing presidents, citizens, and themselves. Corruption became the greatest when the legislature picked the United States senators to represent the state in Congress. The

manner of choice in caucus led to widespread bribery. The story of the occupants of one seat will do.³²

Northern Democrat David C. Broderick lusted for a U.S. Senate seat and finally bested California's senior senator, William M. Gwin. In his infamous "Scarlet Letter," Gwin complained in 1857 of the debilitating effects of patronage, where those he appointed "should be my supporters instead of enemies, and it is being used for my destruction." However, President James Buchanan, a southern toady, spurned Broderick's recommended appointments. The feud festered into the 1859 state election, which saw a southern Democratic sweep, Milton S. Latham's election as governor, and Broderick's death in a duel. The *San Francisco Bulletin* observed, "The Gubernatorial chair has no special charm for Mr. Latham, except as a means to an end." Inaugurated governor of California on January 9, 1860, Latham served only five days before becoming Broderick's successor in the U.S. Senate.³³

In 1863, many candidates wished to warm this seat. One contestant reportedly "boasted that he would be Senator, if it cost him \$150,000," and his emissary wrote a friend to "secure two or three men [supporting other candidates] as soon as possible. Work hard; don't stop on account of price, but secure them as best you can." Meantime, the federal postal agent tendered a bribe to an assemblyman to vote for his Republican candidate in caucus, while two state senators stood hidden in the hotel room wardrobe. The explosive revelation sent uncorrupted northern Democrat John Conness to the Senate and produced a hit play at Sacramento's Metropolitan Theater: *King Caucus, or the Senatorial Muddle*, complete with a facsimile of the original wardrobe.

As Conness's term drew to close in 1868, Democrat Eugene Casserly, who had supported the war effort, received the prize, while another dramatic production appeared as a pamphlet: *Bribery; or, the California Senatorial Election: A Comedy, in Three Acts*. Continuing charges forced Casserly's resignation on November 29, 1873, and through a deal, Republican governor Newton Booth pulled a Latham, resigning to accept a full term in the U.S. Senate. So the story played out in California, with the Central Pacific Railroad owning the deepest pockets, until the 1913 ratification of the Seventeenth Amendment to the U.S. Constitution, which required the statewide popular election of senators.³⁴

In addition to helping elect politicians, offices had assigned jobs. The customs house provided the federal government's main source of revenue in the state. In 1846, Captain James L. Folsom became the first military collector of the port. Military governors modified customs regulations to fit California's needs, and duties financed their government. On March 10, 1849, Congress finally placed California under the general revenue laws, establishing a customs district, and on November 12, James Collier became the first civilian collector. Checking ships and passengers proved to be laborious work. A ledger at the Huntington Library reveals, for exam-

ple, that on June 19, 1854, the French ship *Notre Dame des Victoires* arrived with thirty-five baskets of champagne and other cargo listed in 347 manifests. Not until August 3 did officials finally finish their report on that ship.³⁵

However, private enterprise expedited customs matters for those importers who wished to pay higher express charges in order to receive their merchandise sooner and be first in the market. Whereas individual shippers had to clear boxes individually, Wells, Fargo & Co. arranged with customs officials in New York to clear eight thousand packages at a time. When the Wells Fargo consignment reached the Isthmus of Panama, express company agents placed all of the small boxes into protective, locked packing trunks and sent the shipment on under the watchful eye of a messenger.³⁶

More energy in the customs house went into detecting fraud. Since colonial days, avoiding customs duties had been a matter of course, and until the mid-1860s, the free port of Victoria, British Columbia, served as the conduit for smuggled goods. In 1866, Panama became the place where foreign goods could be slipped among through-merchandise from New York to San Francisco. "It is not much of a [golden] shower that is necessary to enable importers to fee [bribe] a man at Panama," said Joseph W. Stow, president of the San Francisco Commercial Association. Still, prejudice distorted the minds of some customs officials. A San Franciscan declared in 1869 that "the Israelites [were] a little more prone to that sort of business," while a New Yorker affirmed that a Panama miscreant was "a Jew, like nine-tenths of the smugglers." The transcontinental railroad rerouted imports away from such "free" foreign ports, and Jewish stereotyping seems not to have been an issue any longer in the 1870s.

By 1868, San Francisco was "the distributing point for drugs, and especially opium, for the Pacific Coast," special agent Samuel Purdy reported, as Chinese evaded a 100-percent tariff on these products. Ingenious smuggling methods included slipping eight hundred copper shells filled with opium into barrels containing a thousand eggs preserved with a coating of tar and sand, and placing common five-tael (about a half pound) tin boxes filled with drugs into the soles of imported shoes.³⁷

The Arrival of the U.S. Mint

The U.S. Constitution declared that "Congress shall have Power . . . to coin Money, regulate the Value thereof, and of foreign Coin" (Article 1, Section 8). California, with its surfeit of gold dust, massive influx of population, and huge importation of goods, with their accompanying tariff duties, needed this service badly. Characteristically, the federal government responded with too little, too late.

In July and August 1848, military governor Richard B. Mason wrestled with "the almost entire absence of gold and silver coin" in a booming economy of the early Gold Rush. First he allowed merchants to pay customs duties in gold dust valued at sixteen dollars a troy ounce, and then with assayed ingots, revoking his orders each

time when informed of their illegality under 1846 customs regulations. Gold was only a commodity; customs duties, according to federal law, had to be paid in recognized coin. Soon, foreign coins flowed in to be accepted at the value of comparably sized U.S. coins, regardless of their bullion content. This further added to the instability of monetary value.³⁸

Californians themselves tried to solve their coin shortage. By the summer of 1849, San Francisco's private minters, following a precedent from the North Carolina gold fields, were in full production, eventually striking gold coins ranging from 25 cents to \$50, based on the U.S. Mint standard of \$20.67 per troy ounce of gold. Still, such coins circulated at uncertain values, which was debilitating for commerce. Bankers accepted or discounted the privately minted coins—which were not illegal until 1864—according to their metallic value, and in 1851, federal customs officials furthered the confusion. In payment of tariffs, they accepted only the unwieldy United States Assay Office's \$50 octagonal slugs, while Treasury Department officials quibbled that the coins were only 884 to 887 fine, and not the regulation 900—even though they assayed at \$50.10 in gold.³⁹

In the East, the mint at Philadelphia used California gold to begin coining twenty-dollar gold pieces. It struck 1.3 million of them in 1850, 2.4 million in 1851, and 2.2 million in 1852. As usual, though, an official U.S. mint for the area that produced the gold came only much later. Not until February 8, 1851, three years after James Marshall's discovery of gold and the worldwide rush to the new El Dorado, did Senator Gwin introduce a bill to establish a branch mint. The legislation did not clear a dawdling Congress until seventeen months later. Merely remodeling a cramped assayer's office took until April 3, 1854, and the branch mint's operations were slow and careful thereafter. Only after Agoston Haraszthy took charge in 1855 did it begin to meet demand for "Mint Drops," the twenty-dollar double-eagles of commerce, and payroll-standard silver half-dollars. In late 1856, the private minters shut down for good. However, Haraszthy's unbridled energy ran the inadequate plant so hard, losing gold up the chimneys, that the government rewarded his enterprise with a charge of embezzlement. Of course, evidence and the courts cleared Haraszthy, but by then, this talented Hungarian had turned his energies to wine production.⁴⁰

The Commercial Street mint facility also provided respectable jobs for women, and many of them served as adjusters, weighing coins to determine if they fit within legal tolerances, as well as performing clerical jobs. Similar employment continued when operations moved in 1875 to a spacious new building at Fifth and Mission streets, now known as the "Old Mint." When it came to turning gold dust into bars, San Francisco's private assayers and refiners were faster and cheaper than the U.S. Mint. With borrowed money worth 2 to 3 percent interest a month, dust-buyers in the mining districts did not wish to tie up their funds in a two- to four-week

wait for the U.S. Mint, and into the twentieth century, private refiners, such as Contra Costa's Selby Smelting and Lead Company, did a huge business.⁴¹

The Civil War brought a new monetary problem to California. In December 1861, the government suspended specie payments. No longer would it redeem paper money in gold. In 1862, it had presses running off treasury bills, or paper money, to pay war expenses, and in 1863, Congress established national banks, which also issued currency. All federal paper money fluctuated wildly in exchange value with gold, especially according to the Union Army's successes or defeats. However, in November 1862, hard-money Californians resolved to accept paper only at its gold value, defying the central government. Merchants' bills quickly came to carry the notation "Payable in U.S. Gold Coin." When borrowers began paying depreciated "greenbacks" on loans made in gold, the 1863 state legislature passed the Specific Contract Act, permitting a lender to designate the money. Currency reached a low value of thirty-nine cents to the gold dollar in the summer of 1864, as General Ulysses S. Grant stalled before Richmond, and the San Francisco Chamber of Commerce dryly stated that "Our people are not in the habit of carrying Treasury notes in their pockets."⁴²

If two values of United States money were not enough, the 1870s brought a third: silver. Prior to the 1870s, silver dollars did not circulate, since they contained more silver than their face value, and purchasers gobbled them up to melt down for bullion. In 1873, Congress discontinued their minting ("the Crime of '73"), and authorized a slightly heavier silver Trade Dollar for use with China. When European governments also stopped coining silver and the big bonanza of Nevada's Comstock Lode came into production, the price of silver plummeted. Trade Dollars, then worth ninety-five cents, circulated extensively in the West, and in February 1876, San Francisco merchants resolved to accept them only at market value. As a result, bank customers could—and did—keep accounts in three kinds of money until 1878–1879, when the federal government resumed coining standard silver dollars and greenbacks reached par value with gold. However, controversy over the 16:1 ratio of silver to gold coinage, which inflated silver money and deflated gold coinage, continued long after, unsettling investments and commerce.⁴³

The Bumpy Ride of the Mail Services

Congress, on August 14, 1848, provided for a California mail service, but until the completion of the transcontinental railroad, its performance was poor. Before the Gold Rush, the U.S. Post Office had grown accustomed to slow, orderly westward settlement, contracting for new mail routes at the cheapest possible cost. Washington officials had no precedents for facilitating mail for a distant land, where money lay everywhere and where the population was booming. Californians would just have to keep within the eastern scale of expenses.

On November 1, 1848, Postmaster General Cave Johnson chose William Van Voorhies as the special agent to establish mail services and appoint postmasters at the coastal ports where congressionally mandated mail steamers called—but which initially had little population, and which gained little population. Revenues alone would have to pay for unauthorized routes into the populous mining regions. Two politically appointed postmasters never showed up in San Francisco, and Van Voorhies himself established the San Francisco post office upon his arrival on February 28, 1849. Not only were operational expenses “exorbitant” among the Golden State’s great distances, scattered population, and inflated economy, he reported on March 13, but “No one in California seems at present disposed to take upon himself the trouble of public office.” However, unknown to Van Voorhies, he had been replaced on March 30.

The new special agent, R. T. P. Allen, arrived on June 13, 1849, and late that month established seven interior post offices at the supply centers of Vernon, Sacramento, and Stockton, as well as at Benicia, Sonoma, and San Jose; Coloma became the first gold-country office. On receipt of this news, the postmaster general chastised Allen for his high expenses and his failure to have contracts “executed in triplicate,” and he “withheld” approval for all Allen had done. As late as 1854, the state legislature memorialized Congress to establish more frequent delivery and institute service over forty detailed routes.⁴⁴

However, only the federal government could and did subsidize transportation of the mails, from specially built mail steamers commanded by naval officers to stagecoach lines. Monthly steamer mail between New York and San Francisco by way of the Isthmus of Panama began in 1849, and service to the Orient came in 1865. Congress authorized a five-hundred-thousand-dollar annual mail subsidy, and the *Colorado*, the first of the monthly sidewheel steamers, left San Francisco on January 1, 1867, for Hong Kong and Yokohama. When the government doubled payments in 1872, the shipping company doubled the frequency of sailings, using modern iron, screw-propeller steamers. Flour and quicksilver (mercury) became prized exports. On land, mail contracts kept stage companies alive. Stagecoaching was a hard, time-consuming, often barely profitable business, and many times when the mail contract changed, so did the ownership of the stage line.⁴⁵

Again, in the dearth of public service, private enterprise took up the slack and entered California mail delivery. In October 1849, beginning with Alexander H. Todd in the Southern Mines, individual expressmen compiled lists of subscribers, carried their outgoing mail to San Francisco, picked up incoming letters, and charged one to two dollars a letter. In November, energetic Adams & Co., the first of the eastern expresses, arrived. In the frantic express business, owners changed frequently, little companies became bigger ones, and rates came down. In 1852, when a faction of the dissension-ridden American Express Company came to California as Wells,



Constructed in 1874, this lighthouse at Point Fermin guided ships into Los Angeles's San Pedro Bay for almost seventy years. The federal government built twenty-two lighthouses in California between 1854 and 1880. *Courtesy California State Library.*

Fargo & Co., express letter fees stood at twenty-five cents, compared to three cents for U.S. postage. Still, the Sacramento *Californian* remarked on December 30, 1852, "Wells, Fargo & Co. and Adams & Co. have entirely monopolized the Post Office business. We never receive a paper or letter except by one or other of the expresses." The well-traveled editor of the *California Farmer* charged in 1861 that "If the Postmaster-General could look into some of his Post-Offices of California, he would hardly wish to have the 'U.S.A.' placed over the door, unless it should be interpreted—*Useless, Scandalous, Affair.*" By then, Wells Fargo handled three-quarters of all letters within California. On July 1, 1863, the government rewarded California patriotism by dropping the ten-cent rate to the Atlantic states and making postage three cents per half ounce within the entire nation.⁴⁶

San Franciscans soon had more than enough of patronage politics. In April 1864, northern Democratic senator John Conness secured the replacement of Republican San Francisco postmaster Samuel H. Parker with Robert F. Perkins, who promptly sacked fifteen of twenty-five clerks, brought in untrained Conness supporters from the countryside, and assigned them to distribute incoming mails. The mostly Republican Chamber of Commerce then howled about "the general mismanagement of postal affairs" and wished the Post Office to establish "the same promptitude" as Wells Fargo. Wells Fargo sorted letters on steamers and railroads and used post boxes and letter carriers—unknown to government service until a congressional act

of March 3, 1863. Not until November 15, 1869, did the San Francisco postmaster appoint the first seventeen carriers, while free letter delivery came only in 1872.⁴⁷

The 1870s brought increased population, settled agriculturists, and above all, a railroad network to carry the mails to and from and within the state. Postal efficiency increased, while the number of letters Wells Fargo carried between the 1860s and 1890s remained stable at two hundred thousand monthly. In 1880, the government while admitting that "the Express Company handles the mails more efficiently than the postal authorities," unsuccessfully attempted to close it down. Fifteen years later in May 1895, Wells Fargo discontinued its legendary but by then unprofitable Letter Express, but not until January 1, 1913, did the federal government's Parcel Post challenge express package delivery.⁴⁸

"THE HIGH ARM OF MILITARY TYRANNY"

National affairs disrupted any routine the three hundred thousand Californians enjoyed. When Civil War followed Republican electoral victory and southern secession in the winter of 1860-61, stark ideology divided California's three political parties. Southern Democrats, dominant through the 1850s, held firm to white supremacy and state sovereignty; Republicans believed in federal supremacy and equality under the law; northern Democrats combined the racism of the southern Democrats with the nationalism of the Republicans. Each side would have to destroy the opposing ideology to triumph, or, as one orator stated, "The issue is slavery first and Union afterwards; Union first and slavery nevermore."⁴⁹

That winter, the California congressional delegation proved the unreliability of the Democrats when all boldly or covertly supported California's secession as an independent Pacific Republic, and one of the four led Rebel troops at Bull Run. The U.S. Army, though, quickly secured federal property in California. In January 1861, General Albert Sidney Johnston took command of a military department with seventeen hundred troops in California and nineteen hundred in Oregon—about a quarter of the Army nationwide. Fort Alcatraz alertly protected shipping, while at recently completed Fort Point, newly mounted heavy guns faced landward to protect against attack by local Rebels. General Edwin Vose Sumner arrived by sea on April 24, the same day the news of the fall of Fort Sumter came through by Pony Express and telegraph, and took command quietly the next day. Johnston left for the Confederate Army and death at Shiloh.⁵⁰

General Sumner set policies his successors followed. He actively worked with Unionist civil and political leaders, stationed troops in disaffected southern California, where secessionist and pro-southern sentiment was strong, and made arms available for militia companies. Three days following the battle of Bull Run on July 21, the federal government called for the first regiments of California troops.



Unitarian minister Thomas Starr King, photographed here with his wife, Julia Wiggin, worked tirelessly on behalf of the cause of national unity from the time of his arrival in California in 1860 until his death from diphtheria and pneumonia four years later. He campaigned for Abraham Lincoln, served as a spokesman for the U.S. Sanitary Commission during the Civil War, and traveled widely, using his pulpit to urge Californians to see themselves as an inseparable part of the Union. *Courtesy California State Library.*

General Patrick Edward Connor commanded those protecting the Central Overland Mail Route and watching the Mormons in Utah, some of whom also harbored anti-Union sympathies, while General James H. Carleton had the responsibility for the Butterfield stage route into Texas. Ultimately, California funded eight regiments of infantry and the First Battalion of California Mountaineers of six companies, two regiments of cavalry, and the First Battalion of Native California Cavalry of four companies. At least sixteen African Americans served as cooks and in other auxiliary positions in the California units, while two hundred black sailors served aboard ships of the Pacific squadron. The national government enrolled men in the far West, but unlike in the East, never instituted the draft there. The federal government still has not paid the Golden State's \$2.5 million direct outlay for raising and equipping 15,725 men, and in 1997, the state legislature passed a resolution asking for the money.⁵¹

In July 1861, the southern Democratic Party went on record saying that, since the federal government had failed to end "the horrors of civil war" through "Constitutional guarantees," it was "in favor of the recognition of the independence of the Confederate States." Not surprisingly, Republicans, as a result, captured the state offices open for election that year. On February 15, 1862, Postmaster General Montgomery Blair told his San Francisco subordinate to ban the pro-Confederate *Los Angeles Star* and an Oregon newspaper from the mails to curtail their paid subscriptions. In late spring 1862, battlefield losses staggered the Union, and that summer, President Lincoln called for six hundred thousand more troops, threatened to institute a nationwide draft, and concurrently wished to emancipate southern slaves. To silence vociferous Democratic opponents to these measures, on August 8, 1862, the president ordered the secretary of war to suspend the writ of habeas corpus and allow Army officers, U.S. marshals, and chiefs of police to arbitrarily arrest those "discouraging voluntary enlistments" or for "any other disloyal practice."

Rather than being telegraphed to California, these commands arrived by slow boat on September 8, 1862. "Leading Secessionists will be confined at Alcatraz," commanding General George Wright told subordinates, and he constructed the first prison building at the fort that in the future would become infamous as a prison island. "Drunken brawlers of no account will be confined to your guard house unless they take the Oath of allegiance." The general exulted that "open mouthed traitors" were now "beyond the reach of civil authorities" and quibbling attorneys.

With local politicians supplying the targets, those quickly arrested and imprisoned were Major W. R. I. McKay of Benicia, a former state office-holder; George P. Gillis, Democratic State Central Committee representative from Sacramento; Assemblyman E. J. C. Kewen; editor Henry Hamilton of Los Angeles; and state senator Thomas Baker from Visalia. In September and October, Wright also excluded from the mails the *Stockton Argus* and its weekly edition, the *Democrat*; the *San Jose*

Tribune; the *Visalia Equal Rights Expositor* and its predecessor, the *Tulare Post*; and the *Placerville Mountain Democrat*, plus four Oregon journals. Although Democrats reacted with only subdued protest, long-term suppression did not appeal to General Wright. He reported to Washington on November 8 that with state militia companies and "a judicious posting of U.S. troops, I can comprehend but little danger." Most prisoners took the oath of allegiance quickly, while newspapers suspended briefly or resumed publishing under new names. On November 22, the secretary of war ordered, again by slow sea mail, the release of all prisoners. McKay and Gillis left Alcatraz on December 20, 1862, the last openly political arrests for more than a year.⁵²

The year 1863 became the pivotal one in the East militarily and the West politically. Three secessionist pirates, Ridgely Greathouse, Asbury Harpending, and Alfred Rubery, a British subject, angered over the president's Emancipation Proclamation, precipitated much of the action. On March 15, 1863, customs officials, U.S. Navy sailors, and city police captured the pirates' schooner, the *J. M. Chapman*, which proposed to despoil the gold-carrying mail steamers. An outraged legislature quickly passed legislation banning treasonable practices, requiring loyalty oaths for lawyers and schoolteachers, effectively doubling the militia, and allowing soldiers to vote absentee—which had the potential of increasing the number of Union voters, especially in county elections. The federal circuit court, under Justice Stephen J. Field, quickly convicted the three pirate conspirators of treason, and almost as fast, Rubery received a presidential pardon and district court judge Ogden Hoffman, to great Unionist anger, released the other two under the president's general amnesty proclamation of December 8, 1863.⁵³

On April 13, 1863, the secret Union League arrived in California, forming a shadow civil-military government while its 110 local councils inspired Union voters, watched Democrats, and formed legal state militia companies. If conflict broke out, drilled Unionists would have access to arms—kindly supplied to the state by General Wright. The league's Grand Council included two congressmen, the governor, the commander of the state's militia, and a state Supreme Court justice. San Francisco contributed its chief of police, one supervisor, the federal postmaster, the regional revenue assessor, and four customs officers. Of particular importance, Lieutenant Colonel Richard C. Drum, adjutant, and therefore the right-hand man for the U.S. Army's Department of the Pacific commanders, served throughout the league's existence.⁵⁴

In the early 1850s, the California legislature and Supreme Court had banned blacks, Indians, and Chinese from testifying in civil or criminal cases involving whites. Federal judges followed state laws, but district judge Hoffman pushed the limits. When the fusion Union Party-dominated 1863 legislature lifted the ban from black men and women, African Americans filed suits to ride on the street rail-

roads and attend public schools and worked to win acceptance to march in Independence Day parades. The federal government supplied another three important civil rights during the war and Reconstruction that dramatically improved opportunities for black people: the right to homestead and preempt public land, to serve as soldiers and sailors, and finally to vote.⁵⁵

The quest for stronger harbor defenses during wartime evolved into a struggle between department commanders and Washington-based engineers. For three years General Wright wished to throw up temporary earthen batteries, whereas the Army's Engineer Bureau studied everything to death. By the summer of 1864, Alcatraz Island had mounted ninety guns, including a pair of fifteen-inch Rodmans; one faced the Golden Gate, the other pointed toward San Francisco in case a ship made it past the batteries. New federal port regulations adopted in April 1864 directed ships along the south side of the island fortress, so they could be guarded by cross fire from a new battery at Fort Mason (now partially restored). Ships straying along the north side of Alcatraz would meet a similar cross fire from Angel Island batteries, partially built by Humboldt War Indian prisoners.⁵⁶

Concurrently, civilians provided an ironclad warship for the Navy. In 1862, Humboldt County state senator James T. Ryan persuaded the Navy to allot an armored monitor to San Francisco harbor. The *Camanche*, one of the ten *Passaic*-class monitors, had two hundred feet of decking almost at the waterline and two fifteen-inch guns in a revolving turret that fired 460-pound solid shot. Ryan, Frances Secor, a New Jersey shipbuilder, and Peter Donahue of San Francisco's Union Iron Works contracted to prefabricate the ship in the East and reassemble it in California. The ship carrying the monitor arrived safely but then sank in a freak storm on November 16, 1863, while moored to a wharf. Salvagers had raised all pieces by June 1864, but parties wrangled over liability. Finally, on July 21, the San Francisco Board of Supervisors pledged sixty thousand dollars in gold to begin reassembly, which the federal government never reimbursed. On November 14, 1864, twenty-five thousand people watched the *Camanche* slide down the ways. The city of San Francisco had built "the 'prophylactic' which warded off the attacks of pirates," remarked supervisor Isaac Rowell.⁵⁷

In 1864, military stalemate in the East gave way slowly to grinding, costly, approaching military victory. The presidential election heightened tensions, and in the Golden State, the Union League dominated Democrats and commanding generals. On May 3, a week before the Democratic State Convention was due to meet in San Francisco, John S. Chipman, a former Michigan congressman, called on Democrats to "rise up" and "put down the military despotism under which we are at present groaning," and then establish "a Republic on the Pacific." A few important Unionists visited General Wright, and Chipman, as his nephew phrased it, was given lodging at the "Army's Bastille Boarding House of Alcatraz." As Democratic delegates from



Modeled after Fort Sumter in Charleston, Fort Point was built by the U.S. Army Corps of Engineers in the late 1850s to guard San Francisco Bay against enemy intrusion. It served as a defense installation during the Civil War, manned by a U.S. artillery regiment, and continued to house troops until 1886. *California Historical Society Collection at the University of Southern California: Title Insurance and Trust Photo Collection.*

the interior counties on their way to San Francisco steamed past the grim, cold, island fortress, convention proceedings remained subdued.⁵⁸

Like the French Bourbons, Democrats forgot nothing and learned nothing. On July 21, 1864, Charles L. Weller, chairman of the state central committee and second in command of the Knights of the Columbian Star, a laughable counterpart to the Union League, repeated Chipman's message to the same Democratic club. Fearing that the Union League would prevent Democrats from voting, Weller called on party members to arm themselves and form secret societies to "resist the high arm of military tyranny in California." The grand secretary of the Union League notarized a newspaper reporter's account, and Weller soon had his own island vacation for several weeks. General Irvin McDowell, who took over as the Union military commander in California on July 1, questioned "whether the public safety will admit of Mr. Weller's release to join his friends, or will require," the general slyly added, "his friends shall be sent to join him."⁵⁹

At the same time, in response to a civil war in Mexico, coupled with the French



Although California had no compulsory military draft during the Civil War, a battalion of Californians volunteered to fight with the Second Massachusetts Cavalry in Virginia. This collage of photographs includes sixty-one members of the so-called California Hundred, who helped the Union Army capture Richmond in 1865. *Courtesy California State Library.*

invasion and the establishment of a puppet empire there, United States customs officials and Army generals were made agents of the State Department so they could fight to preserve American neutrality in that conflict. Throughout 1864, General Plácido Vega, a Mexican citizen taking refuge in California, sought to send arms and men south to help President Benito Juárez's popular Liberal cause. In a situation similar to what Generals Hitchcock and Wool had faced ten years earlier, in July and August 1864, federal authorities seized some fifteen thousand of Vega's muskets. Meanwhile, ex-senator Gwin proposed to Napoleon III that he colonize the mineral-rich northern states of Mexico with settlers from California and hold those territories in trust until the French-controlled Mexican emperor, Maximilian, paid off his war debt. From January through March 1865, Unionists ridiculed "Eduardo de Güino," while important Democratic newspapers supported this haven for "the friends of free white government, the persecuted, outraged, down-trodden Democracy." General Irvin McDowell booted out Gwin's two immigration agents and with the aid of the Liberal Mexican consul on February 11, 1865, required passports for Mexican-bound travelers.⁶⁰

John Wilkes Booth's assassination of President Lincoln on April 14, 1865, shattered the nation's exultation at the surrender of Confederate general Robert E. Lee. Black mourning crepe appeared, and bells tolled throughout San Francisco the next morning. At 3 P.M. on April 15, angry Unionists vented frustration on disloyal newspapers. First, mobsters spread the second-floor office papers and printing material of the *Democratic Press* over Washington Street, followed quickly by that of the British *News Letter*, Irish-Catholic *Monitor* and *Occidental*, and the French Imperialist *L'union franco-américaine*. *L'écho du Pacifique*, organ of the French Imperial consul and housed on the fourth floor of the *Alta California* building, became the final target. As men bent on destruction congregated on Montgomery and Sansome streets, the police and Army provost guard took protective positions in front of the Sacramento Street newspaper office.

About five o'clock, the crowd spotted General McDowell walking to his Portsmouth Square headquarters and called to him. "My Friends," he addressed the mob, a salutation Democrats never forgot, "I have wished to exercise as seldom as possible the military power so apt to become military despotism. I have therefore tolerated many wrong things done in the public press." Approval then followed: "While your course today was very wrong, it was very natural . . . and [you] have perhaps saved me some trouble. Now, I want you to save me further trouble by dispersing." The crowd did, helped along by two thousand militiamen. By evening, five thousand troops from the Presidio occupied the city. Their bonfires blazed at financial district street intersections, and shortly the provost guard occupied the gutted newspaper offices. General McDowell gradually allowed the papers to revive under different names. The destroyed *Democratic Press*, for instance, emerged in June 1865 as the *Examiner*. Minor disturbances continued throughout California, and the mayor of San Francisco, the federal district judge, and others called on General McDowell to preserve the peace. On April 17, 1865, he ordered the arrest of anyone and the suppression of any newspaper "so utterly infamous as to exult over the assassination of the President." From then until June 1, the Army arrested sixty-eight Californians, thereby preventing the calamity Judge Hoffman predicted if "people would have taken vengeance in their own hands." By the end of July 1865, however, the Army had freed all its prisoners.⁶¹

THE REPUBLICAN REVOLUTION

With peace, the Army withdrew from civil affairs and a semblance of balance returned to the political scene. John McCall, one of the military prisoners, sued General McDowell for illegal arrest, and on April 25, 1867, Circuit Judge Matthew P. Deady of Oregon ruled in McCall's favor. Deady upheld the tenets of the famed 1866

U.S. Supreme Court *Ex Parte Milligan* decision, which determined that only Congress possessed the authority to suspend the writ of habeas corpus. While McDowell had acted on "public necessity," Judge Deady ruled, he did so with "no authority or order from the President." Congress made the question moot, however. A quickly passed law upheld all officers in such cases.⁶²

In 1867, with voters repulsed by what they saw as Republican wartime excesses and returning to their traditional political loyalties, the Democratic Party regained control of state offices, leaving Republicans to fight a rear guard action on civil rights. The issues in the gubernatorial election, the *Examiner* declared on July 1, 1867, were "negro and Chinese suffrage" and "railroad swindles." With opposition toward nonwhite groups still strong in the state and growing toward the Chinese, in 1868 a splinter legislature failed to ratify the Fourteenth Amendment to the U.S. Constitution, which gave some civil rights protections to freed slaves and other nonwhites. The next year, allegations of imminent Chinese suffrage demolished the Republicans in the legislative and state Supreme Court elections. Democrats, now constituting 80 percent of the new legislature, rejoiced in their return to power in 1870 after a decade and also gleefully "disapproved of and rejected" the Fifteenth Amendment, granting black suffrage.

However, the two constitutional amendments became law despite California's refusal to ratify them and, with the Civil Rights Act of 1870, pushed through Congress by Senator William M. Stewart of Nevada with one section for the particular benefit of the Chinese, had a profound effect on civil rights in the state. Three Code Commissioners revising California's laws removed all bans on court testimony by Chinese and Indians—though a stubborn Democratic state Supreme Court refused to allow such testimony until the codes went into effect on January 1, 1873. Similarly, in January 1871, a federal circuit judge struck down the hated foreign miners' tax, applied exclusively to Chinese since 1860. Then, through the mid-1880s, Democratic and Republican governors alternated in a closely contested state, and support for the Chinese became politically unwise for either party. Urban ordinances and state law harassed the Chinese, culminating in the federal Chinese Exclusion Act of 1882 prohibiting most immigration to the United States from China. However, the federal district, circuit, and supreme courts used the 1868 Burlingame Treaty permitting free immigration, the Fourteenth Amendment, and numerous congressional civil rights acts to afford the Chinese a measure of redress, striking down the most discriminatory provisions in state and municipal law. Civil War-related changes in federal law ushered in an era of dramatically altered, though slowly developing, opportunity for California's racial minority groups.⁶³

Also during and after the Civil War, Republican federal administrations favoring internal improvements encouraged construction of a network of rails throughout California through land grants and subsidies. While shippers groaned about high

short-haul rates, passengers at least benefited. From the 1860s to the 1890s, rail fares averaged four cents a mile, compared to a "bit" (12.5 cents) per mile on the other government-subsidized public transportation, the stagecoach.⁶⁴

However, granters of favors attracted lobbyists, and in January 1868, a railroad promoter described how to cultivate congressmen, their staffs, and various Washington departments: "We keep on getting acquainted, for there lies the power, the ability to go to these different men & greet them as friends and acquaintances. A little stock distributed judiciously helps things too, you know." Collis P. Huntington of the Central Pacific, who found the government a friend rather than a regulatory foe, was the best of the best. David Igler argues in a recent article that railroad lands rather than Mexican grants created California's great landed estates—aided by helpful congressmen. Senator Aaron A. Sargent in 1875 exempted British mining investors from anti-alien land laws and then in 1877 pushed the Desert Lands Act through Congress to help James Ben Ali Haggin's Kern County Land Company solidify its holdings.⁶⁵

Angry denunciations of the railroad "monopoly," which to some extent was empowered by federal actions and land subsidies, became a staple feature of state elections from 1867 forward. They became especially virulent at the 1878 constitutional convention. The Central-Southern Pacific Railroad countered attacks on its economic and political influence by using the federal government as a refuge. In 1884, the railroad gained a Kentucky charter to circumvent California's strong anti-railroad restrictions and to switch lawsuits to friendly federal courts. The Southern Pacific went to its grave on September 11, 1996, absorbed by the Union Pacific, its 1869 transcontinental partner and later bitter rival, forever damned as "the Octopus" in Frank Norris's famed 1901 novel for squeezing the life out of wheat farmers. Yet Richard J. Orsi's scholarship shows that the story of the federally subsidized Southern Pacific is a complicated one. Beyond federal and even state efforts, the railroad sponsored immigration, land distribution to actual small-scale farmers, fair-use irrigation, scientific agriculture, energetic marketing of California fruits, forest preservation, and national parks.⁶⁶

Seaborne commerce demanded safe anchorages, and the federal government worked to supply them. In 1866, U.S. Army engineer Major Robert S. Williamson took charge of rivers and harbors in northern California—San Francisco, Napa, Petaluma, and Humboldt Bay. In 1869, at his request, Alexis Von Schmidt blew up Blossom Rock, a navigational hazard in San Francisco Bay, in a spectacular show for San Franciscans. Better known was his successor, Major George H. Mendell, who served from 1871 to 1895, while General Barton S. Alexander saw to the southern California ports of Santa Barbara, Los Angeles, and San Diego.⁶⁷

The state of California and the federal government often shared resources. The national government gave wide distribution to facts and figures on California's pop-



A parade on Montgomery Street in San Francisco celebrates the meeting of the Union Pacific and Central Pacific railroads in Promontory, Utah, in May 1869. Decades in the making, the transcontinental railroad represented a massive cooperative effort between federal and state governments and private industry. *California Historical Society.*

ulation, economy, society, and other glories through the deca-annual census, cabinet secretary reports, and various publications. In 1873, President Ulysses S. Grant appointed General Alexander and Major Mendell of the Army Corps of Engineers and versatile scientist George Davidson of the Coast Survey to examine California's irrigation needs. Building on their work, in 1878, William Hammond Hall, the first state engineer, argued that "the State shall direct and control the diversion of waters from the streams." The legislature, however, refused to publish Hall's studies, and twentieth-century state and Army civil engineers had to redo them. Meanwhile, the

federal district court solved the problem of mining debris choking the rivers and ruining farmland. In 1884, Judge Lorenzo Sawyer ordered that hydraulic tailings be impounded, in one of the first major assertions of federal environmental regulatory power.⁶⁸

Federal action also played a role in the restoration of California's fisheries, which had been depleted or destroyed by miners' destruction of streambeds. The state was a year ahead of the federal government when the 1870 legislature established a Fish Commission "for the restoration and preservation of fish," but in 1872, Spencer F. Baird, the United States Commissioner of Fish and Fisheries, dispatched Livingston Stone to set up a salmon hatchery. At the McCloud River site, Stone also recorded the language of his Indian employees, who made the project successful. In 1874, Wells Fargo & Co.'s Express shipped six million salmon eggs to Minnesota and eastward; in 1875, eight million; and in 1878, twelve million. In 1877, Shasta County egg shipments also went to Australia, New Zealand, Canada, and Europe.⁶⁹

Concurrently, a concern for forestry and watershed preservation spread from Europe to the United States, and in late 1879, a federal Division of Forestry emerged, six years before a parallel state agency. In 1880, in response to clamorous Californians, the federal General Land Office adopted limited protection for the Sequoia "Big Trees," and the following year, Senator John F. Miller attempted to create a huge national park to contain major Sequoia groves in the Sierra. When the secretary of interior allowed large stands of the Big Trees to be logged, Californians, including the domineering Southern Pacific Railroad, rallied to the cause of a Sequoia national park. George W. Stewart thundered as much through the columns of his *Visalia Delta*, and victory came on September 25, 1890, with congressional passage of a bill creating and then expanding Sequoia National Park. Golden State precedent existed. Back in 1864, Senator John Conness and President Abraham Lincoln had turned Yosemite Valley over to the state as the nation's first wilderness preserve, and on October 1, 1890, Yosemite, again with strong railroad support, also became a national park.⁷⁰

Overall, what was the federal role in early California? In 1880, thirty years past statehood, most federal operations were almost routine: customs house, mint, post office, harbor improvements, lighthouses, arsenals, Navy yards, systems of mining and land titles, railroad and other transportation subsidies, and Indian control. The Civil War was fast becoming memory, leaving Judge Ogden Hoffman to reflect, "Military authority [was] always strong enough here to discourage resistance; [it would have been] in the highest degree dangerous to have left this state to the civil authority." However, the war's civil rights legacy survived in the federal courts, which, contrary to public will, increasingly exhibited judicial activism by striking down discriminatory city ordinances and state laws. As the twentieth century ap-

proached, new economic and environmental areas caused federal government concern. Conservation, land use and water rights, and abuses by huge monopolies such as the government-spawned Southern-Pacific Railroad, would bring regulation. The new century would give the national government the dominant role.⁷¹

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Contributors

GORDON MORRIS BAKKEN is professor of history at California State University, Fullerton. Holder of both a law degree and a Ph.D. in history from the University of Wisconsin-Madison, Bakken has authored or edited more than a dozen books on legal history, U.S. western history, and California history, including *The Development of Law in Frontier California* (Greenwood, 1985), *Practicing Law in Frontier California* (University of Nebraska Press, 1991), and *Learning California History* (Harlan Davidson, 1999).

JOHN F. BURNS is history and social science consultant for the California Department of Education. For sixteen years he served as the State Archivist of California and was responsible for planning and building the new State Archives facility, Golden State Museum, and Constitution Wall in downtown Sacramento, and for creating the State Government Oral History Program. He has been adjunct professor in the Public History Program at California State University, Sacramento, and in the Library Science Program at San Jose State University. He has also been president of the National Association of Government Archives and Records Administrators, member of numerous local, state and national boards and commissions, and recipient of several awards, including the California Military History Medal. Recent publications include the history essay in *Courthouses of California* (Heyday Books and California Historical Society, 2001) and several articles as well as editing *Sacramento: Gold Rush Legacy, Metropolitan Destiny* (Heritage Media, 1999) and the California History-Social Science Standards issue of *Social Studies Review* (Spring/Summer 1999).

ROBERT J. CHANDLER received his doctorate in 1978 from the University of California, Riverside, for his dissertation "The Press and Civil Liberties in California during the Civil War, 1861-1865." Since then, he has been the senior researcher for Historical Services, Wells Fargo Bank. Bob Chandler has written forty articles on Wells Fargo and Civil War California. He is chairman of the *Quarterly News-Letter* committee of the Book Club of California, a member of the Roxburghe Club of San Francisco, and is in good standing with Yerba Buena no. 1, E Clampus Vitus.

JUDSON A. GRENIER is professor emeritus of history at California State University, Dominguez Hills, where he served as first chair of the history department. A graduate of UCLA, where he collaborated with George Mowry on a study of the muckraking movement of the

Progressive era, he has written extensively about California history, including political figures such as Hiram Johnson and Upton Sinclair, and is the author of *Golden Odyssey: John Stroupe Houston, California's First Controller and the Origins of State Government* (Historical Society of Southern California, 1999).

EDWARD LEO LYMAN has been teaching history in California for more than thirty-four years, the last half of that time at Victor Valley College, in Victorville. He received a Ph.D. in history from the University of California, Riverside, in 1981. Among other books and some two dozen journal articles, he has written *A History of Millard County [Utah]* (Utah State Historical Society, 1999) and *San Bernardino: The Rise and Fall of a California Community* (Signature Books, 1996).

ROGER D. MCGRATH, Ph.D., is author of *Gunfighters, Highwaymen, & Vigilantes: Violence on the Frontier* (University of California Press, 1984) and a contributor to *Violence in America: The History of Crime* (Sage Publications, 1989). He has authored some forty articles and book reviews, appearing in historical journals, magazines, encyclopedias, and newspapers. He is featured in twenty-four episodes of *The Real West* and in a half-dozen episodes each of *Biography* and *Tales of the Gun* and was the consultant and technical advisor for *The Young Riders* television series. From 1982 to 1997 he taught the history of the American West and California at UCLA, where he was named "Outstanding Professor" by the Panhellenic Council. In 1999 he was awarded the California Military History Medal.

SHIRLEY ANN WILSON MOORE received her Ph.D. in history from the University of California, Berkeley, and is professor of history at California State University, Sacramento. Her areas of specialty are African American history, U.S. western history, and oral history. She is the author of a number of journal articles and essays. Her first book, *To Place Our Deeds: The African American Community in Richmond, California, 1910-1963*, was published in 2000 by the University of California Press, and she is the coeditor, with Quintard Taylor, of the forthcoming book *Above the Rockies of Prejudice: African American Women in the West*. Dr. Moore serves on the board of the Sacramento African American Historical and Cultural Society and has served on the editorial board of the *Western History Quarterly*, the board of trustees of the California Historical Society, and the Committee on the Status of Women in the Historical Profession of the Organization of American Historians. She is the recipient of the City of Richmond's Historic Preservation Award (2000), and the California State University President's Award for Research and Creative Activity (1999-2000). Dr. Moore is also a singer and songwriter who has performed her one-woman multimedia show, "Women's Lives in Song: Workers, Wives, Mothers, Daughters, Lovers, and Wild Women," for audiences around California.

RICHARD J. ORSI is professor emeritus of history at California State University, Hayward. He is the co-author (with Richard B. Rice and William A. Bullough) of *The Elusive Eden: A New History of California* (McGraw-Hill, 1996; third, revised edition, 2002). He retired in 2000 from a position of twelve years as editor of *California History*, the quarterly journal of the California Historical Society. He is the editor of the California History Sesquicentennial Series and the co-editor of each of the four volumes.

JOSHUA PADDISON is a doctoral student in history at the University of California, Los Angeles. He has worked as a researcher, archivist, or historical consultant for a variety of institutions, including the National Park Service, California Council for the Humanities, California Historical Society, and San Francisco State University. He is editor of *A World Transformed: Firsthand Accounts of California before the Gold Rush* (Heyday Books, 1999).

DONNA C. SCHUELE received her J.D. from the University of California at Berkeley's Boalt Hall in 1985 and her Ph.D. in jurisprudence and social policy from Boalt Hall in 1999. She has taught at the University of California's Berkeley and Santa Barbara campuses and at Whittier College School of Law. In 1997-98, she clerked for the Hon. Alfred T. Goodwin of the United States Court of Appeals for the Ninth Circuit, and she is currently a judicial law clerk in the United States Bankruptcy Court. In addition, she is the executive director of the California Supreme Court Historical Society.

MARLENE SMITH-BARANZINI, associate editor of *California History* from 1990 to 2002, is editor of *The Shirley Letters from the California Mines, 1851-1852* (Heyday Books and Santa Clara University, 2001). She is co-author with Howard Egger-Bovet of the five-volume USKids History Series (Little, Brown, 1994-1998). Ms. Smith-Baranzini is working on a biography of Louise A. K. S. Clappe.

TEENA STERN is an archivist, museum specialist, and historical consultant residing in Citrus Heights, California. She holds a master's degree in American history from California State University, Northridge. Former president of the Los Angeles City Historical Society, the Society of California Archivists, and the California Council for the Promotion of History, she has served as a professional historian with, among other agencies, the Urban Archives Center, California State University, Northridge; El Pueblo de Los Angeles State Park; and the California State Archives. Author of numerous articles and book reviews on California history, she was also co-editor (with Waverly Lowell and Richard J. Orsi) of the "Archives in California" special issue of *California History* (Spring 1996).

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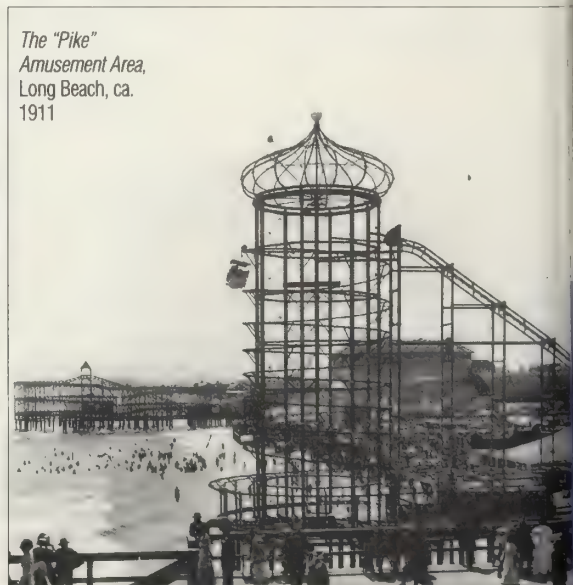
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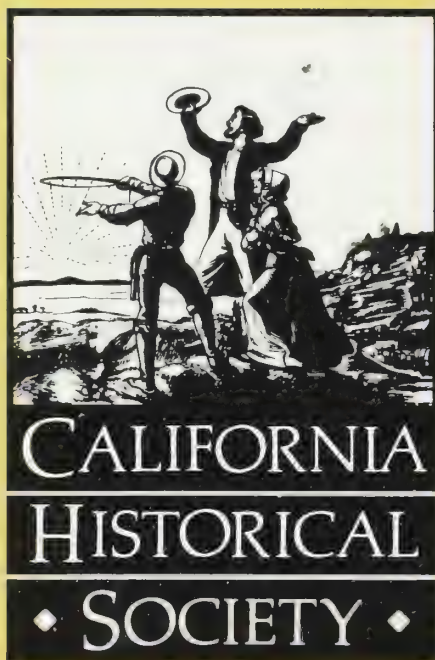
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